



# DRI CHECKLIST

## STANDARDS AND CRITERIA



Martha's Vineyard Museum (DRI 665) before, during, and after the DRI review process in 2017

Standards and Criteria for the referral of projects for possible review by the Martha's Vineyard Commission as Developments of Regional Impact pursuant to the Martha's Vineyard Commission Act (Chapter 831) Section 12.

Version 14

## 1. GENERAL INFORMATION ABOUT THIS POLICY

### 1.1 Statutory Mandate

The Martha's Vineyard Commission Act, MGLA Chapter 831 ("MVC Act"), sets out the Commission's mandate to "protect the health, safety and general welfare of island residents and visitors by preserving and conserving for the enjoyment of present and future generations the unique natural, historical, ecological, scientific, and cultural values of Martha's Vineyard which contribute to public enjoyment, inspiration and scientific study, by protecting these values from development and uses which would impair them, and by promoting the enhancement of sound local economies" (MVC Act, Section 7).

The MVC Act also requires that the Martha's Vineyard Commission ("Commission") adopt standards and criteria which specify the types of development which, because of their magnitude or the magnitude of their effect on the surrounding environment, are likely to present issues of significance to more than one municipality – developments of regional impact (DRIs). This Checklist details those standards and criteria.

### 1.2 The Role of Local Officials and Initial Procedures

A Town official who has the responsibility for issuing a Development Permit for a proposed Development<sup>1</sup> should review this Checklist to determine if the proposed Development is covered by this Checklist. If the Checklist is triggered, the Development must be referred to the Commission<sup>2</sup>. (See types A, B and D below.) If the official is uncertain about whether or not to refer a project after having consulted the Checklist, the Commission's Executive Director is available to provide assistance.

If a Development is not covered by this Checklist, any municipal agency in the town where the Development is located, the Board of Selectmen in another Island Town, or the Dukes County Commissioners may seek Commission review of any Development which they consider may have significant regional impact. (See type C below.)

Referrals, plus all permit applications, plans, documents and other related materials supplied by the applicant, must be forwarded to the Commission, via certified mail, for review and Commission action prior to any local decision on the Development request.

### 1.3 Types of DRI Referral

There are 4 different types of DRI referrals identified throughout the Checklist<sup>3</sup>. Each type of referral triggers a different procedure.<sup>4</sup> The different types of referrals and applicable procedures are set out below.

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<sup>1</sup> **Note:** The term "Development" is broadly defined in the MVC Act and in this Checklist (see section 1.5). Applicants and referring officials are strongly urged to refer to the definition of the term "Development" in section 10 to determine whether this Checklist covers a proposed activity.

<sup>2</sup> Ordinarily, the local official with authority to grant the relevant Development Permit will make the referral of a project triggering a Checklist item. However, any other local official, including the Board of Selectman, may also make referrals of Checklist items. The referral retains its character as mandatory (type A) or concurrence required (type B) and does not become a discretionary referral (type C) merely because another official in the same town has made the referral.

<sup>3</sup> **Note:** In interpreting this Checklist, the most restrictive threshold applies. For example, if one threshold for a Development project requires mandatory DRI review, this trumps another threshold that requires MVC concurrence, and the project will not require a hearing to determine regional impact. Likewise, if a Development project triggers one item on the DRI Checklist but is exempt under another item, it nevertheless will be treated as required by the Checklist item that is triggered. **Note**, also, that if a project is within a DCPC, it is nevertheless subject to applicable Commission review if a Checklist item is triggered.

<sup>4</sup> For a more detailed discussion of DRI procedures, refer to the MVC Regulations for Developments of Regional Impact.

### **A. Mandatory Referral with Mandatory MVC Public Hearing**

The local permit application must be referred to the MVC, and the Commission must review it as a DRI. In brief, this procedure requires a public hearing to elicit public input to assist the Commission in determining the benefits and detriments of the Development. These Checklist items are identified with the notation “**Mandatory Referral and MVC Review**”.

### **B. Mandatory Referral With Mandatory MVC Meeting to Determine Regional Impact**

The local permit application must be referred to the Commission, but the Commission may or may not concur with the referral based on its determination as to whether the Development is likely to have a significant regional impact with respect to water resources, transportation, open space, habitat, visual, cultural, community, construction process, or any other factors. The Commission makes this determination in a preliminary public meeting. The meeting is not intended to weigh the benefits and detriments of the Development but, rather, to determine only the issue of potential regional impact. If the Commission determines that the Development is not likely to have a significant regional impact, the Commission will remand the referral back to the Town to continue the permitting process. If the Commission determines that the Development is likely to have a significant regional impact, it will proceed as in type A above. These Checklist items are identified with the notation “**Mandatory Referral Requiring MVC Concurrence.**”

### **C. Discretionary Referral**

Whether or not a Development is covered in the DRI Checklist:

- any municipal agency in the town where the Development is proposed (‘In-Town Referral’);
- the Board of Selectmen of another town (‘Between-Town Referral’); or
- the Dukes County Commissioners (‘Island-Wide Referral’).

may ask the Commission to review any Development that it considers may have significant regional impact with respect to water resources, transportation, open space, habitat, visual, cultural, community, construction process, or any other factors. (See Attachment B for a list of questions that can help a referring authority determine whether a Development might have a regional impact.) As with type B referrals, the Commission may or may not concur with the referral depending on its determination as to whether there is significant regional impact. The Commission will make this determination in a preliminary public hearing. The hearing is not intended to weigh the benefits and detriments of the Development but, rather, to determine only the issue of regional impact. (This procedure is specifically set forth in Section 14(e) of the MVC Act.)

If the Commission determines that the Development is not likely to have a significant regional impact, the Commission will remand the referral back to the Town to continue the permitting process. If the Commission determines that the Development is likely to have a significant regional impact, it will then hold a public hearing to elicit public input to assist the Commission in determining the benefits and detriments of the Development.

### **D. Modifications to a Previously Approved DRI**

Any Development which constitutes a Modification of a previously approval DRI – whether or not it requires a Development Permit from the Town – must be referred to the Commission.<sup>5</sup> This type of referral includes any modification of a Development that is on land which has been, in part or in whole, the subject of a previously approved DRI application or is on adjacent land which is, or is proposed to be, incorporated into the business operation. The Commission will hold a preliminary meeting to determine if the Modification is likely to have a significant regional impact. The meeting is not intended to weigh the benefits and detriments of the Modification but, rather, to determine only the issue of regional impact. (Note, however,

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<sup>5</sup> If no local or other official refers a Modification for DRI review (for whatever reason), the developer must notify the Commission of the proposed modification. The Commission will then initiate appropriate proceedings.

that a modification that triggers a Checklist item on its own is treated as a type A or B, as appropriate.)

- If the Commission determines that the Modification is not likely to have a significant regional impact, the Commission will determine whether to approve the Modification or not. The Modification, if approved, must be recorded. The matter will then be remanded to the Town to continue the local permitting process as appropriate.
- If the Commission determines that the Modification is likely to have a significant regional impact, it will proceed as in type A above.

Not subject to referral under this type are:

- properties for which a previous DRI application has been denied, or withdrawn, or for which a previous DRI approval has expired without implementation; and
- a subsequent Development within a subdivision of land approved by the Commission as a DRI that is in conformance with the Commission decision, unless the Development triggers a DRI Checklist item in its own right or the DRI decision approving the subdivision calls for further Commission review and approval.

#### **1.4 Public Hearing and Deliberation to Determine Benefits and Detriments**

Pursuant to sections 14 and 15 of the MVC Act, the Commission will hold a public hearing for all mandatory referrals and for all other referrals if the Commission has determined that there is significant regional impact. As indicated above, the purpose of the public hearing is to gather information from the applicant and the public so as to enable the Commission to weigh the proposal's probable benefits against the probable detriments.

After the public hearing and subsequent deliberation by the Commission on the benefits and detriments of the Development (including a Modification, as the case may be) the Commission will decide whether to approve (including with conditions) or deny the Development.

The decision will be forwarded to the relevant local officials/authorities. If the Commission has approved the Development (or has approved the Development with conditions), the local officials/authorities may continue the local permitting process. The local officials/authorities may then deny the permit request or grant the permit request with or without conditions, but any conditions imposed may not be less restrictive than those imposed by the Commission. If the Commission has denied the Development, the Development may not proceed and there may be no further action by the Town.

#### **1.5 Definitions**

The following capitalized terms have the meaning given when used in this Checklist:

**Change of Use** means a change of use from a previous use category to another use category (such as from warehouse to retail, or from office to restaurant), where 'previous use' applies to the current use or a use of the same facility in the previous five years. (A change in ownership does not necessarily trigger a Change of Use unless it is accompanied by a change in the category of use.)

**Contiguous Related Ownership** means any group of two or more Parcels owned by a single entity or in 'related ownership' whereby any Parcel in the group shares, for any distance, a common boundary line with at least one other such Parcel. Parcels in contiguous ownership may be located wholly within one Town, may cross Town boundaries or may cross zoning district boundaries (where 'related ownership' means a family or economic relationship among owners of land or facilities indicating premises that are under unitary or joint control, or are being developed for shared economic benefit).

**Demolition** means any act of pulling down, destroying, removing, or razing any building or a substantial portion thereof (ie more than 50% of the floor area of the historic portion or 25% of any façade of the historic portion), with or without the intent to replace the structure so affected.

**Development** means:

- any building, mining, dredging, filling, excavation or drilling operation (excluding single-user wells)
- any material change in the use or appearance of any structure or in the land itself
- the dividing of land into Parcels
- a Change in Intensity of Use of land
- alteration of a shore, beach, seacoast, river, stream, lake, pond, or canal, including coastal construction; or
- Demolition of a structure; or
- the clearing of land as an adjunct of construction; or
- the deposit of refuse, solid or liquid waste, or fill on a Parcel of land.

**Development Permit** means any permit, license, authority, endorsement or permission required from a Municipal Land Regulatory Agency prior to the commencement of construction, improvement or alteration made to buildings or land.

**Division of Land** means the dividing, subdividing or separating a Parcel of real estate into more Parcels including Approval Not Required (ANR) divisions/subdivisions, as well as the establishment of a condominium, exclusive use access, ground lease for buildings, or other arrangement that is the functional equivalent of separate Parcels.

**Farmland** means land used for pasturing; for the growing of crops, trees, flowers and nursery plants; or for the commercial growing of trees for sale. (See attached map.)

**Floor Area** means the total square footage of floor area of a structure measured by using the outside dimensions of the structure at each floor level with a ceiling height of at least 54" (including space within a trailer/container or other similar structure, but excluding temporary on-site storage during construction). Note: Floor Area includes gross new Floor Area without credit for pre-existing square footage that has been or is to be demolished or removed.

**Change in Intensity of Use:** Any Development (or any activity such as adding tables, fast food, or take-out to a restaurant; adding pumps to a service station; increasing the number of dwelling units; changing the nature of products or services offered; or otherwise changing the type or scale of operation of a business) that is likely to lead to a change in any one of the following: i) vehicular and/or pedestrian traffic; ii) parking requirements; iii) lot coverage percentage; iv) hours of operation; v) water usage, wastewater flow and/or nitrogen loading; vi) energy use; or vii) marine traffic.

**Island Plan:** The Martha's Vineyard Island Plan, the regional plan of the Island adopted by the Martha's Vineyard MVC in December 2009, as may be amended from time to time.

**Modification:** A change to a previously approved DRI, including a change to any approved plans, use or conditions.

**Municipal Land Regulatory Agency** means any municipal agency, board, commission, department, office, or official that has statutory authority to approve or grant a Development Permit.

**Parcel:** A defined piece of real estate (that may or may not be a lot on which a structure may be erected).

**Prime Agricultural Soils** means Class I and II agricultural soils identified by the Massachusetts Soil Conservation Service. (See attached map.)

**Significant Habitat** means land having wildlife significance for being essential to the conservation of a listed species, namely:

- Core or Priority Habitat, as defined by the Massachusetts Natural Heritage and Endangered Species Program; or
- Critical, Intact Source, or Minimally Disturbed Source Habitat, as defined in the Island Plan.

(See attached map.)

**Site Alteration** means the clearing or cutting of trees or other removal of vegetation or the excavation, digging, drilling, or other activity on land that results in a perceptible change to the landscape and/or threatens archaeological resources or natural habitat

### **1.6 Additional Sources of Information**

The following related documents are available from the Commission offices or on the website ([www.mvcommission.org](http://www.mvcommission.org)):

- The Martha's Vineyard Commission Act,
- The DRI Process,
- Making a DRI Application

## 2. DIVISION OF LAND

### **2.1 Division of Land in a Business, Commercial, or Industrial Zone**

Any Development that proposes to divide land which is located in a business, commercial or industrial zoning district. (See attached map [ ].)

**–Mandatory Referral Requiring MVC Concurrence**

### **2.2 Division of Land NOT in a Business, Commercial, or Industrial Zone**

Any Development that proposes to divide land in Contiguous Related Ownership:

a. into 5 or more Parcels, where less than 30 acres of land in any location is involved

**–Mandatory Referral and MVC Review**

b. into 3 or more Parcels, where less than 30 acres of land in a ‘rural area’<sup>6</sup> is involved

**–Mandatory Referral Requiring MVC Concurrence**

c. into more than [5] Parcels, where 30 or more acres of land is involved (*provided* that if the land was the subject of a division that took place after January 1, 1974 and it is irrevocably prohibited from further subdivision, a referral is not required unless a type D discretionary referral is made -- see section 1.3C).

**–Mandatory Referral Requiring MVC Concurrence**

### **2.3 Division of Current, Former, or Potential Farmland**

Any Development that proposes to divide land in Contiguous Related Ownership of 2 acres or more which does not protect, in perpetuity by irrevocable covenant or deed restriction, the land from development which would interfere with future agricultural use of the site and which:

a. is currently active Farmland

**–Mandatory Referral and MVC Review**

b. has actively been worked as Farmland at any time since January 1, 1974

**–Mandatory Referral and MVC Review**

c. is identified as Prime Agricultural Soils.

**–Mandatory Referral and MVC Review**

### **2.4 Division of Habitat**

Any Development that proposes the division or subdivision of land that includes more than 2 acres of Significant Habitat.

**–Mandatory Referral Requiring MVC Concurrence**

### **2.5 ANRs**

Any Form A - Approval Not Required (ANR) that creates 3 or more Parcels (including Parcels created within the prior 5 years by ANR or by division/subdivision).

**–Mandatory Referral Requiring MVC Concurrence**

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<sup>6</sup> A ‘rural area’ is an area of relatively lower density of settlement as defined in the Island Plan. (See attached map.)

### 3. DEVELOPMENT OF BUSINESS, COMMERCIAL, INDUSTRIAL AND MIXED-USE LAND AND BUILDINGS

#### 3.1 Commercial, Storage, Office, Industrial and/or Mixed-Use Development<sup>7</sup>

Any Development of commercial, storage, office, industrial and/or residential land(s) or building(s), provided that one or more of the following thresholds are met:

- a. new construction totaling 3,500sq ft or more of commercial, storage, office, industrial or residential Floor Area in one or more buildings (including containers used for storage or active space)  
**–Mandatory Referral and MVC Review**
- b. new construction totaling more than 2,500sq ft but less than 3,500sq ft or more of commercial, storage, office, and/or industrial Floor Area in one or more buildings  
**–Mandatory Referral Requiring MVC Concurrence**
- c. new construction of building addition(s) or auxiliary building(s) (ie a building giving support, help, aid, assistance, or which is subsidiary, incidental or additional, to an existing building) totaling 1,000sq ft of Floor Area, resulting in a total of 2,500sq ft or more of Floor Area  
**–Mandatory Referral Requiring MVC Concurrence**
- d. any combination of new construction totaling 1,000sq ft or more of Floor Area and ‘outdoor commercial space’<sup>8</sup>, resulting in a combined area of 2,500sq ft or more of Floor Area and land area  
**–Mandatory Referral Requiring MVC Concurrence**
- e. new or expanded ‘outdoor commercial space’<sup>9</sup> of 6,000sq ft or more in total, including commercial polyhouse structures (but excluding space used as Farmland or for the outdoor storage of plant stock)  
**–Mandatory Referral Requiring MVC Concurrence**
- f. a Change of Use of any part or all of the land/building, or any Change in Intensity of Use, such that the new use on its own would trigger any threshold in this DRI Checklist  
**–Mandatory Referral Requiring MVC Concurrence**
- g. a reduction in the number of dwelling units on the land  
**–Mandatory Referral Requiring MVC Concurrence**
- h. parking areas that provide spaces for ten or more vehicles, excluding parking lots which are used for another on-site existing permitted use  
**–Mandatory Referral Requiring MVC Concurrence**
- i. high traffic-generating business, such as a drive-In bank, convenience market, fast food or take-out restaurant, coffee or donut shop, or service station.  
**–Mandatory Referral Requiring MVC Concurrence**

#### 3.2 Exceptions to Section 3.1

<sup>7</sup> **Note:** Section 3.1 does not apply to Development within the Airport Business Park, which is regulated by the Development Agreement, dated August 5, 1998 between the MVC and the Airport MVC (or any successor agreement to that agreement), which carries its own thresholds for DRI referral.

<sup>8</sup> ‘Outdoor commercial space’ means any outdoor area used: (a) for the display, delivery, loading, storage, processing, production, sale, or leasing of material(s), or (b) as a commercial parking lot (but excludes access roads, landscaping, parking accessory to the main use, and structures.)

<sup>9</sup> See fn 8.



Section 3.1 does not apply to:

- a. strictly residential Developments (see section 4); or
- b. Development inside the Airport Business Park that is regulated by the Development Agreement, dated August 5, 1998, between the Commission and the Airport Commission, and which carries its own thresholds for DRI referral; or
- c. Developments subject to a Town 'area development plan' that:
  - sets out project requirements; criteria for project review with respect to traffic, parking, site design and landscaping, building design, scenic values, energy, protection of historic and archeological resources, affordable housing, water quality, and other issues of regional impact; and specified thresholds for DRI referral; and
  - has been approved by the Commission and certified by it that the Town's special permit provisions give the administering body the legal authority to make binding decisions concerning the above enumerated matters (including the possible imposition of conditions and denial of the project), unless a separate Checklist item is triggered.

### **3.3 Other Specific Commercial, Storage, and Industrial Facilities**

Any Development for a new or proposed expansion of:

- a. a vehicular refueling or repair station<sup>10</sup>, or a junkyard  
**–Mandatory Referral and MVC Review**
- b. a facility for the commercial storage of fuel and/or hazardous materials  
**–Mandatory Referral and MVC Review**
- c. a commercial activity which proposes to provide drive-through window service  
**–Mandatory Referral and MVC Review**
- d. a restaurant in a B-1 or B-2 zoning district that is designed for, or proposes to expand to, 80 or more seats, as permitted by the Town Board of Health  
**–Mandatory Referral and MVC Review**
- e. a restaurant in a B-1 or B-2 zoning district that is designed for, or proposes to expand to, fifty (50) or more seats, as permitted by the Town Board of Health  
**–Mandatory Referral Requiring MVC Concurrence**
- f. any restaurant or food establishment outside of a B-1 or B-2 zoning district  
**–Mandatory Referral Requiring MVC Concurrence**
- g. any "formula retail"<sup>11</sup> business  
**–Mandatory Referral Requiring MVC Concurrence**
- h. any container, vehicle, or trailer used for storage that:
  - is visible from a public way; and
  - remains in place for more than ninety (90) days (other than temporary on-site storage during construction).**–Mandatory Referral Requiring MVC Concurrence**

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<sup>10</sup> This Checklist item does not include electric charging stations that are ancillary to an unrelated commercial use.

<sup>11</sup> A "formula retail" business is one which maintains, or which is required by contract, as a franchise or by other arrangement to maintain, two or more of the following standardized (formula) array of services and/or merchandise: i) menu or products; ii) trademark, logo, service mark, or symbol; iii) interior décor; iv) exterior architecture or façade; v) signage; vi) layout; vii) uniforms; viii) color scheme; or ix) similar standardized features, and which are utilized by ten or more other businesses worldwide regardless of ownership or location.

## 4. RESIDENTIAL DEVELOPMENT

### **4.1 Multiple Residential Units**

Any Development, including an expansion or Change of Use of an existing Development, which proposes to create or allow:

- a. 5 or more dwelling units including guest houses

–Mandatory Referral Requiring MVC Concurrence

- b. 5 or more rooms for lease or rent

–Mandatory Referral Requiring MVC Concurrence

- c. any combination of dwelling units including guest houses, or rooms for lease or rent totaling 5 or more units/rooms.

–Mandatory Referral Requiring MVC Concurrence

### **4.2 Large Residential Structures<sup>12</sup>**

Any Development of a dwelling unit and/or any other structure on the same lot as the principal dwelling unit, including the expansion of an existing dwelling unit and/or other structure, with a Floor Area which, in combination with the Floor Area of all other structures on the property, exceeds 6,500sq ft.

–Mandatory Referral Requiring MVC Concurrence

## 5. DEVELOPMENTS IN OR ADJACENT TO HARBORS, GREAT PONDS, PONDS OR OCEANS

### **5.1 Development in or Adjacent to the Water**

Any Development (including any Development such as mooring basins, fill, construction of piers, armoring of coast, or dredging) that is within or adjacent to the following waters of Martha's Vineyard or is within 25 feet landward of the mean high water mark of:

- a. Edgartown, Vineyard Haven, Menemsha or Oak Bluffs harbors or the West Basin in Aquinnah; or  
b. a body of water of ten (10) acres or more; or  
c. the ocean.

–Mandatory Referral and MVC Review

This section 5.1 does not apply to:

- a private pier or dock serving only the residents of the property on which it is located and which is not located on a state or federally designated barrier beach; or
- municipal dredging projects located entirely within a single Town and conducted in accordance with a dredging management plan that has been adopted by the relevant Town agency.

### **5.2 Changes to Commercial Piers**

Any Development that entails a Change in Use or a Change In Intensity of Use of a commercial pier.

–Mandatory Referral Requiring MVC Concurrence

<sup>12</sup> **Note:** This section 4.2, Large Residential Structures, takes effect as at the date of Commission approval of a policy governing the DRI review of large residential structures.

**5.3 Commercial Development Related to Piers:** Any commercial Development located on the landward portion of the property on which a pier is located that proposes:

- a. the creation of new commercial facilities related to the use of a pier  
–Mandatory Referral Requiring MVC Concurrence
- b. the expansion of existing commercial facilities related to the use of a pier; or  
–Mandatory Referral Requiring MVC Concurrence
- c. a Change of Use or a Change in Intensity of Use related to the use of a pier.  
–Mandatory Referral Requiring MVC Concurrence

## 6. INSTITUTIONAL DEVELOPMENTS, PLACES OF ASSEMBLY AND MUNICIPAL FACILITIES

### **6.1 Private Facilities**

Any private Development that proposes the creation or expansion of a social, health, recreational, religious, or educational facility or other place of assembly or institutional facility with:

- a. a Floor Area of 3,500sq ft or more<sup>13</sup>  
–Mandatory Referral and MVC Review
- b. the capacity to accommodate more than fifty (50) individuals (as defined by the State Building Code).  
–Mandatory Referral and MVC Review

### **6.2 Municipal, Governmental and Other Public Facilities**

Any Development that proposes the creation or expansion of a social, health, recreational, or educational facility or other place of assembly or institutional or municipal facility by a governmental or other publicly owned or quasi-publicly owned entity with:

- a. a Floor Area of 3,500sq ft or more<sup>14</sup>  
–Mandatory Referral Requiring MVC Concurrence
- b. the capacity to accommodate more than 50 individuals (as defined by the State Building Code).  
–Mandatory Referral Requiring MVC Concurrence

## 7. TRANSPORTATION FACILITIES AND INFRASTRUCTURE

### **7.1 New or Expanded Transportation Facilities or Infrastructure**

Any Development<sup>15</sup> that proposes the creation or expansion of facilities or infrastructure that:

- a. provide for, or are ancillary to the provision of, transportation to or from the Island of Martha's Vineyard  
–Mandatory Referral and MVC Review

<sup>13</sup> This Checklist item is triggered if the Floor Area of the proposed expansion, together with that of the existing facility, exceeds the 3,500sq ft threshold. It also applies if to any expansion of an existing facility that is not already a DRI but exceeds the threshold.

<sup>14</sup> Fn 13 applies to this section as well.

<sup>15</sup> For the purposes of this section, the term "Development" also refers to facilities for transportation by air, land and water (including facilities such as runways, terminals, staging areas, ticket offices, docks; the construction, parking facilities, bicycle paths, and bridges). For private piers and docks, see section 6.1

- b. are or will be part of a transportation system between two or more Island towns  
–Mandatory Referral Requiring MVC Concurrence

## **7.2 Creation or Alteration of Roads**

Any Development that creates, widens or reconfigures any 'principal road'<sup>16</sup>.

–Mandatory Referral Requiring MVC Concurrence

# **8. DEVELOPMENTS AFFECTING NATURAL OR CULTURAL RESOURCES**

## **8.1 Demolition of Historic Structures**

Any Demolition of a structure that:

- a. has been identified as having historic significance by a local historic commission or architectural commission, by a general plan of the Town, by the Massachusetts Historical Commission, or is listed with the National or Massachusetts Registers of Historic Places (see attached map)

–Mandatory Referral Requiring MVC Concurrence

- b. was constructed before January 1, 1920.

–Mandatory Referral Requiring MVC Concurrence

This section 8.1 does not apply to structures located within:

- established historic districts and which are already protected by local historical or architectural MVC review that has the legal authority to condition and permanently deny an application; or
- the Martha's Vineyard Camp Meeting Association's Wesleyan Grove National Historic Landmark District.

## **8.2 Archaeology**

Any Development or excavation that proposes the division or subdivision of land or Site Alteration of land that is identified by any state, federal or local agency as being of archaeological significance.

–Mandatory Referral Requiring MVC Concurrence

## **8.3 Significant Habitat**

Any Development that proposes the Site Alteration of more than 1 acre of Significant Habitat.<sup>17</sup>

–Mandatory Referral Requiring MVC Concurrence

## **8.4 Development within a Coastal DCPC**

Any Development within the Coastal DCPC or within 500' of mean high water of a great pond or the ocean that results in:

- a. a new, or the expansion of an existing, road, bridge, ramp, or driveway which provides direct public vehicular access to or crosses the coast, a great pond or other water body, a coastal bank, a dune, a tidal wetland, or to a beach

–Mandatory Referral and MVC Review

<sup>16</sup> A 'principal road' means any road that has been designated by the Massachusetts Department of Transportation as "arterial" or "collector", as well as North Road, Middle Road and Menemsha Crossroad in Chilmark, and Barnes Road north of the roundabout in Oak Bluffs.

<sup>17</sup> See also section 2.4.

- b. a hard-surfaced road, parking lot or walkway with an impervious surface, as defined by Town bylaws  
–Mandatory Referral and MVC Review
- c. a parking lot for more than 5 vehicles  
–Mandatory Referral and MVC Review
- d. any Development on Nomans Land Island.  
–Mandatory Referral and MVC Review

**8.5 Development within any other DCPC**

Any Development within a DCPC that the Commission has specifically classified as being of regional impact in the Town regulations approved for that DCPC. (See attached map.)  
–Mandatory Referral and MVC Review

**8.6 Current, Former, or Potential Farmland<sup>18</sup>**

Any Development (including any Site Alteration) on 2 or more acres of land in Contiguous Related Ownership (other than the acreage directly related to agricultural food production) that is:

- a. currently active Farmland  
–Mandatory Referral Requiring MVC Concurrence
- b. has actively been worked as Farmland at any time since January 1, 1974  
–Mandatory Referral Requiring MVC Concurrence
- c. identified as Prime Agricultural Soils.  
–Mandatory Referral Requiring MVC Concurrence

**9. COMMUNICATION AND ENERGY FACILITIES**

**9.1 Telecommunications**

- a. Any Development that proposes the construction or erection of any telecommunications tower as set forth in the Federal Telecommunications Act of 1996 and which would exceed 35 feet in height as measured from the natural grade of the site upon which the tower is to be located.  
–Mandatory Referral Requiring MVC Concurrence??
- b. Any reconstruction, replacement, or reconfiguration of an existing tower on the same site, provided that the height of the replacement or reconstruction does not exceed the height of the existing wireless telecommunications tower.  
–Mandatory Referral Requiring MVC Concurrence

**9.2 Wind Energy Facilities**

The erection, construction, installation, or modification of a wind energy facility, or of a measurement tower (or met mast) that will be in place for more than 14 months, in the following categories as defined in the Wind Energy Plan for Dukes County (prepared by the Commission in collaboration with the 7 towns of Dukes County and adopted on October 18, 2012).

<sup>18</sup> See also section 3.3.  
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- a. a facility whose height is more than 150 feet  
–Mandatory Referral and MVC Review
- b. a facility located in the Wind Ocean Zone (see attached map)  
–Mandatory Referral and MVC Review
- c. a facility located in the Land Zone – Exclusionary Area or Area of Special Concern (see attached map)  
–Mandatory Referral Requiring MVC Concurrence
- d. a facility located less than six (6) times the turbine height from a municipal boundary  
–Mandatory Referral Requiring MVC Concurrence
- e. a facility that would be subject to review under a Town bylaw where such review is preempted or otherwise not allowed by virtue of an act, regulation, policy, or other law applicable to the Town but not to the Commission.  
–Mandatory Referral and MVC Review

**9.3 Solar Facilities**

- Any installation of ground-mounted solar panels covering an area greater than 25,000sq ft.  
–Mandatory Referral Requiring MVC Concurrence

# ATTACHMENT A

## POSSIBLE FACTORS WARRANTING DISCRETIONARY DRI REFERRAL

Even if a proposal doesn't trigger any of the thresholds in this DRI Checklist, a proposed Development may be referred to the MVC as a Discretionary DRI Referral if it is believed that the proposed project is likely to have a regional impact with respect to issues such as: water resources, transportation, open space, habitat, visual, cultural, community, construction process, or any other factors that might have a regional impact. It may be referred by any municipal permit-granting agency in the Town where the Development is located, by the Board of Selectmen of another Town, or by the Dukes County. (See section 1.3 of this DRI Checklist.)

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The following questions may be used by local boards and agents in helping to determine whether a proposed Development might warrant referral as a Discretionary DRI Referral. This should not be construed as a "required" checklist, nor as an exhaustive list of factors that might warrant a referral of a proposed Development. These questions may be helpful for all types of Development including division of land, construction, Changes of Use, or Changes in Intensity of Use.

### Water Resources

- a) Will there be a serious increase in nitrogen loading (or other contaminants) from the proposed project, especially within a nitrogen-sensitive watershed? Will the nitrogen loading exceed the acceptable loading limit for the watershed as determined by the MVC?
- b) Will the project cause or increase any storm water discharges into wetlands or water bodies?
- c) Will the project interfere with any existing public access to the shoreline?
- d) Will the project displace any water-dependent use?
- e) Will the project enlarge or intensify a use in a FEMA flood zone or have any adverse impact on a barrier beach or coastal dune?
- f) Will the project create any disturbance or alteration of a wetland or vernal pool or their buffer zones?
- g) If the project is located in an area that is sewered after January 1, 2012, will the project have a significantly higher density than would have been allowed under Title 5?

### Transportation

- h) Will the project generate more traffic or require more parking facilities than the previous use? Is the proposal a 'high traffic-generating use,' namely a daycare, discount store, movie theater, post office, sit-down restaurant, supermarket, or any other use that generates between 75 and 149 trips per day per 1000 square feet (based on the rates issued by the Commission or, if unavailable, by the Institute of Transportation Engineers).
- i) Is the project located on or close to roads or intersections that have been identified in the Martha's Vineyard Regional Transportation Plan as having significant traffic problems? These include, but are not limited to:
  - Edgartown: Upper Main Street, Main Street and intersecting streets, the Triangle;
  - Oak Bluffs: Beach Road, Circuit Avenue, SSA ferry area;
  - Tisbury: Upper State Road, Beach Road, Beach Street, Main Street and intersecting streets, Water Street and SSA ferry area, Five Corners.

j) Is it anticipated that the total expected number of additional trips from the proposal (based on the rates issued by the Commission or, if unavailable, by the ITE) on a road or intersection will increase by more than 10% or 200 trips per day, whichever is less, especially if the road or intersection has been identified as having significant traffic problems?

k) Will the project create any traffic safety problems?

*The MVC Traffic Planner should be consulted to help analyze these situations.*

#### Open Space and Habitat

l) Will the project disturb the habitat of any rare or endangered plant or wildlife?

m) Will the project reduce the amount of open space on the site to below 65 percent in Primary or Core Habitat areas, or 40 percent in other areas?

n) Will the project disturb or disrupt open space on or abutting the site?

#### Sustainability

o) Will the project discharge noise, odors or other noxious emissions?

p) Will the project use a significant amount of non-renewable energy?

q) Will there be a serious increase in the use, storage, treatment, disposal or generation of hazardous materials or wastes?

#### Visual, Cultural, and Community

r) Does the project have a Floor Area divided by lot size (FAR) significantly (e.g. 50%) greater than the average for its surrounding neighborhood such that it would impact the neighborhood character?

s) Will the project appear from a public way to be significantly larger than other buildings or structures in the area or will it have clearly visible and significantly different building form (massing, roof shape), materials, or other features from those in the surrounding area (taking into consideration the building location and design as well as the site topography and landscape design)?

t) Will the project obstruct significant viewsheds or otherwise have a significant visual impact from a public way (such as a major Island road or downtown street, a public body of water, or another public open space)?

u) Will the project obstruct historic or ancient ways?

v) Will the project have a negative impact on cultural or historical resources or on neighborhood character including areas identified as Historic or Traditional Neighborhoods in the Island Plan?

#### Construction Process

w) Is the project likely to generate significant construction-related impacts, such as the addition or removal of significant quantities of soil and/or being located where there is limited access such as a narrow public or private road?

#### Other

x) Is the project not subject to a Town special permit or other review process – including a public hearing – that would provide for adequate review of significant impacts?

y) Are there any other factors peculiar to this project that might have a regional impact?

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The staff of the Martha's Vineyard MVC is available to help clarify the above factors with respect to specific projects and sites. For assistance with any aspect of the DRI Process, please contact the Commission.





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