

# **MVC Policy for DRI Review**

## **Affordable Housing Policy**

This policy is one of a series of documents prepared to help Applicants and members of the public understand how the Martha's Vineyard Commission evaluates proposed Developments of Regional Impact, as mandated by its enabling legislation, Chapter 831 of the Acts of 1977 as amended.

Chapter 831 requires the Commission to evaluate a proposed DRI based on a number of factors including "whether the proposed development will favorably or adversely affect the supply of needed low and moderate income housing for island residents". This policy is a revision of the Commission's 1998 Affordable Housing Policy (as further revised by the Commission in January 2019).

The Commission is mandated to weigh the benefits and detriments of a proposal to determine whether the project should be approved, approved with conditions, or denied. Consult the Commission website ([www.mvcommission.org/DRI](http://www.mvcommission.org/DRI)) or office (508-693-3453) for more information. This policy reflects MVC practices in reviewing DRI proposals in recent years. It is set forth in order to assist Applicants in preparing proposals that address the Commission's concerns.

The Commission will use this policy during the review of the benefits and detriments of the proposal and to formulate conditions that may be attached to the approval of an application. It should therefore be used by the Applicant to help design a proposal including Applicant offers to offset anticipated detriments. Applicants are invited to consult the MVC's DRI Coordinator and Commission staff for help in identifying which policies apply to their project.

This policy is generally a good indication of the Commission's concerns and can help the Commission evaluate the merits of a proposal. However, the Commission weighs the overall benefits and detriments of all aspects of a project, and evaluates each on its own merits. Based on the special circumstances of each

proposal, the MVC could deny a project that respects some or even all of the policy or might approve one that doesn't meet all of the policy. The Commission recognizes that there might be special circumstances whereby deviations from the guidelines might be appropriate

## 1. POLICY DESCRIPTION, GOALS AND OBJECTIVES

### 1.1 The Need for Affordable Housing<sup>1</sup>

Martha's Vineyard is a small but complex community made up of a wide range of individuals and families. These individuals and families include those whose forebears trace back generations, as well as those who have more recently found a home here. Some live here year-round; some live here for much of the year; some are seasonal-only residents. Taken as a whole, the community includes a broad range of individuals with various talents, expertise and skills, running the economic gamut from those for whom housing is unaffordable to those who have greater financial security. Although the Island population is relatively small, the community offers employment opportunities in a variety of fields – some well paid, others perhaps not – but all contributing to the Island's economy and well-being. This diversity is perhaps what distinguishes our community from many others.

The Island's ability to maintain such a diverse community – and particularly a diverse year-round community – is directly dependent on the availability of affordable year-round housing. Islanders rely upon the services provided by a whole range of people at different income levels, including “essential workers” such as teachers, police, and health and human service providers and other workers whose pay may similarly be below the Island's median income but who provide a wide variety of services which underlie the Island's economy and enable us all to enjoy the benefits of contemporary life.

Businesses, town governments and other non-profit enterprises need reliable labor in order to provide these important services. Indeed, the stability of the Vineyard's economy is dependent on being able to attract and retain qualified employees. However, the ability of these businesses and other enterprises to attract and retain labor has been constrained in large part by the shortage of affordable and stable year-round housing for a significant portion of the Island's workforce. The lack of an adequate supply of affordable housing forces some employees to live off-island and commute daily, preventing them from effectively becoming an integral part of the Island community. In addition, the lack of such housing forces employers to pay more to attract and retain talent, driving up the price of goods and services and adversely affecting economic competitiveness. This lack similarly impacts consumer choice and access to essential services. Increasingly, the health of the Island community and economy and the quality of our Island life is vulnerable to a growing lack of affordable housing.

This problem arises principally because Martha's Vineyard is a small island that has a unique character and tremendous natural beauty, both of which attract seasonal residents. These same factors operate to create potential investment opportunities in Vineyard properties. Whether property buyers are seasonal residents or investors, there is strong demand both for existing year-round properties, which are converted into short-term rentals or kept for occasional use by the owner, and for undeveloped land. However, the finiteness of our land resources, the

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<sup>1</sup> For the purposes of this policy, the term “Affordable Housing” includes not only Low Income and Moderate Income Housing, but also Community and Workforce Housing in recognition of the Commission's intent to address all of these housing needs. (See definition of Affordable Housing at section 6.) Note that this definition differs from that used by the Department of [ ].

desirability of the Island as a vacation destination and/or investment opportunity and the fact that many of these seasonal residents and investors can afford to pay very high property costs based on incomes earned elsewhere have changed the dynamics of the housing market. Together, these factors have operated to rapidly drive up the price of property over the last several decades. The result is a housing market that is beyond the means of most working Vineyarders.<sup>2</sup>

The role of the Martha's Vineyard Commission is to help promote the provision of fair, decent, safe, affordable housing for rental or purchase that meets the housing needs across all income sectors but especially those income thresholds with the greatest need. The purpose of this policy is not an attempt to solve the Island's Affordable Housing problems, but is focused on ensuring that new residential development and new commercial projects do not further exacerbate the existing problem. This policy lays out the criteria used by the MVC to calculate the probable effects a development may have on the affordability of housing on the Island.

The Island's housing needs are well documented and this policy is based on the following legislation, studies and plans:

- MGLA, section 40B (Massachusetts Comprehensive Permit Act)
- [cite for legislation authorizing the Vineyard to allow housing affordability deed restrictions for persons earning up to 150% AMI]
- 2003 MVC Nexus Study
- 2009 MVC Island Plan
- 2013 Martha's Vineyard Needs Assessment
- 2014 Affordable and Community Housing Zoning Analysis
- 2018 Draft Housing Production Plans (for each Island Town)

## **1.2 Applicability**

This policy applies to all DRI projects (whether mandatory or discretionary referrals) that are likely to generate an incremental need for affordable housing. Accordingly, it applies not only to DRIs involving residential divisions of land and developments and commercial developments over a specified square footage (including developments at the Airport Business Park), it also applies, for instance, to DRIs involving a change of use or a change in intensity of use.

## **1.3 Strategies**

In general terms, the following strategies may be employed in order to meet the objectives of this policy:

- provision of land
- provision of housing units
- payment of monetary mitigation.

## **1.4 Commission Discretion in the Application of this Policy**

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<sup>2</sup> It should be noted that there is a year-round housing shortage at almost all income levels, and not simply at the lower levels.

The Commission is keenly aware that each DRI project is different in terms of location, use, scale and other characteristics, and as a consequence, introduces a unique set of housing imperatives. In addition, the Commission acknowledges that there are a variety of housing options which can be used to address the Island's housing crisis, and that alternative solutions, exemptions or modifications not specifically identified in this policy may be warranted in the circumstances. Accordingly, this policy is intended to be implemented with flexibility while still being responsive to meeting the greatest affordable housing need and making the greatest impact in each case.

The Commission will use its discretion in determining the specific components and details of Affordable Housing mitigation. In exercising its discretion, the Commission will be guided by its desire to achieve the greatest housing benefit. The Commission believes that the greatest housing benefit will result from projects that provide an increase in housing diversity and choice, increase the availability of year-round housing, utilize (and improve) existing housing stock, and increase housing affordability. The Commission may provide incentives to encourage the creation of the greatest housing benefit.<sup>3</sup>

Specific mitigation measures are outlined in this policy and, *in general*, they are listed in order of what the Commission believes would result in the greatest affordable housing benefit. Applicants may opt for affordable housing mitigation measures that differ from those outlined in this policy or which have a lesser priority. The Commission's final determination will be based on its assessment of the project's overall benefits and detriments – and the Commission's assessment as to the adequacy of affordable housing mitigation will form part of its deliberations.

## **2. RESIDENTIAL DRIs – Assessment of Housing Impact**

The Commission assumes a 10/1 relationship between residential developments and the need for units of Affordable Housing. This relationship is premised on the State's affordable housing legislation, GL c 40B, which establishes an objective of 10% of housing units in the affordable category.<sup>4</sup>

### **2A. Residential DRIs Involving the Creation of Lots by Division or Subdivision**

**2A.1 Mitigation Contribution:** In the case of a creation of lots by division or subdivision (where no housing is proposed to be created), the following mitigation options should be considered by the applicant:

- (a) provide 10% of the total number of Buildable Lots<sup>5</sup> in the division or subdivision; and/or

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<sup>3</sup> For instance, the Commission may accept a reduced mitigation contribution if the applicant is providing housing which is consistent with 'Smart Growth' principles. Or, if permitted by local zoning, the Commission may allow a development to exceed standard density requirements provided the additional Dwelling Units authorized are allocated to Affordable Housing.

<sup>4</sup> However, the Commission believes this may be a conservative estimate for the Island given the unique factors described in section 1 of this policy and the increased pressure on Island housing since the Commission's initial use of this ratio in 1998 and, accordingly, in certain circumstances the Commission may determine that a different relationship is appropriate.

<sup>5</sup> The Buildable Lot ordinarily must not be smaller in acreage than the average of the Buildable Lots in the Subdivision.

- (b) provide off-site Buildable Lots that can support as of right the same number of units as the lots in the development; and/or
- (c) pay monetary mitigation calculated as set out in section 2A.2 to a Housing Authority.

If the number of lots to be provided is not a round number, the fractional number of lots shall be accounted for with monetary mitigation calculated as set out in section 2.2.2.<sup>6</sup>

**2A.2 Monetary Mitigation:** Monetary mitigation for a Buildable Lot shall be an amount equal to the fair market value of the lot (including the value of any rights, entitlements or memberships that accompany lots in the division/subdivision) as at the date of the sale of the first lot in the division or subdivision. For the purposes of this section, 'fair market value' means the selling price for a property (assuming it is not Deed Restricted) to which a willing buyer and willing seller can agree as determined by an Island real estate appraiser selected by the Commission. The applicant must pay the costs of any such appraiser.

**2A.3 Prior Divisions/Subdivisions:** Lots created under prior divisions (including prior Form A divisions and prior divisions of farmland treated as a DRI) or prior subdivisions (regardless of whether they have been previously reviewed as a DRI) will be included in the calculation of the total number of Buildable Lots.<sup>7</sup> (This section does not apply to divisions or subdivisions created before 1974 but it does apply to divisions and subdivisions subsequent to that date even if the original division or subdivision occurred prior to 1974.)

**2A.4 Previously Provided Affordable Housing:** In determining the mitigation due under this section, consideration will be given to any Affordable Housing mitigation provided at the time of any prior division or subdivision, whether provided voluntarily or as a result of a prior Commission order.

**2A.5 Family Subdivisions:** The purpose of this section is to facilitate the ability of Island families to continue to reside on the Island. The Commission, at its discretion, may determine that any Buildable Lots in a subdivision which the owner intends to convey to his/her immediate family members shall not be included in the total number of Buildable Lots at the time of the DRI review. If any of the lots are subsequently conveyed to a non-family member, they will be deemed subject to this policy and will be included (retroactively) in the total number of Buildable Lots. Any monetary mitigation payable will be based on the value of the lot (excluding any improvements) at the time of the conveyance out of the family. This arrangement may be subject to conditions, including the timing of the conveyance of any such lots to the family members.

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<sup>6</sup> For instance, if a project proposes to create 15 lots, the mitigation would be 1.5 lots. One lot would be provided for Affordable Housing. The .5 lot remainder could be dealt with by way of monetary mitigation. Similarly, if a project proposes to create 6 lots, the mitigation would be .6 lots and could be dealt with by way of monetary mitigation.

<sup>7</sup> For instance, if a DRI project proposes to establish 4 new Buildable Lots within an existing subdivision but, as part of the initial subdivision, the property was divided into 8 lots, the total number of Buildable Lots would be 12. Likewise an ANR creating 2 Buildable Lots from a single Buildable Lot in a previous project comprising 8 Buildable Lots would not in and of itself trigger a DRI review. However, in any later division subject to DRI review (including a later ANR), all lots, however and whenever created, would be subject to inclusion and review under this policy, with credit for any Affordable Housing provided in connection with the property.

**2B. Residential DRIs Involving the Construction of 10 or more Dwelling Units (not including Mixed-Use Developments)**

**2B.1 Mitigation Contribution:** In the case of a DRI that proposes to construct or allow Dwelling Units (including the expansion of an existing development), the following mitigation options should be considered by the applicant:

- (a) provide on-site (ie collocated with the other housing in the subdivision) 10% of the total number of Dwelling Units<sup>8</sup> proposed as Affordable Housing; and/or
- (b) provide comparable off-site housing (including existing housing or the construction of new housing); and/or
- (c) pay monetary mitigation calculated as set out in section 2B.2 to a Housing Authority.

If the number of Dwelling Units to be provided is not a round number, then the fractional amount shall be accounted for with monetary mitigation calculated as set out in section 2.3.2.

**2B.2 Monetary Mitigation:** In the case of a Dwelling Unit under section 2B.1, the monetary mitigation will be determined by the Commission having regard to the cost of building a unit comparable to other units in the division/subdivision.

**2B.3 Condition of Dwelling Units:** On-site Dwelling Units provided must be

- (a) newly constructed; and
- (b) integrated with the other units in the development; and
- (c) in keeping with the exterior architectural design, appearance, and construction of the other units in the development; and
- (d) constructed of the same quality of materials used in the other units in the development.

The Commission may require the applicant to provide plans and other details with respect to these issues.

**2B.4 Prior Construction of Dwelling Units and Previously Provided Affordable Housing:**

Dwelling Units constructed in the development prior to the current application will be included in the calculation of the total number of Dwelling Units. In determining mitigation due, consideration will be given to any Affordable Housing mitigation previously provided in the development.

**2B.5 Mitigation under Section 2A:** Mitigation provided under this section 2B is in addition to mitigation provided under section 2A if the DRI involves both the division or subdivision of land and the construction of Dwelling Units.

**3. NON-RESIDENTIAL DRIs (including Mixed-Use Developments)**

**3.1 Mitigation Contribution:** In the case of a DRI involving the development of non-residential land, the following mitigation options should be considered by the applicant:

- (a) provide sufficient on-site housing<sup>9</sup> to accommodate the Affordable Housing impact of the project; and/or

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<sup>8</sup> The total number of Dwelling Units includes all such units where permitted by zoning and/or the covenants applicable to the development.

- (b) provide sufficient off-site housing<sup>10</sup> (including existing housing or the construction of new housing) to accommodate the Affordable Housing impact of the project; and/or
- (c) pay monetary mitigation calculated as set out in section 3.2 to a Housing Authority.

**3.2 Calculating Monetary Mitigation:** Mitigation under this section for the commercial components of a project is calculated based on an estimate of the number of additional people to be employed as a result of the implementation of the applicant's DRI project. The estimate is a function of the total new/additional square footage proposed by the project and the project's intensity of use<sup>11</sup> based on the type of use proposed<sup>12</sup> and is calculated as follows:

$$(\text{new/additional square footage}) \times (\text{project intensity of use}) \times (\$8/\text{sq}'^{13})$$

Examples of the application of this formula are set out in Appendix A.

**3.3 Determination of Total Additional Square Footage:** Total new/additional square footage includes all new/additional square footage in the proposed development or development extension including the basement, commercial and residential areas, and common spaces within the footprint of the building. Any square footage offered by the applicant as Deed Restricted Affordable Housing as part of the DRI process will be deducted from the total square footage of the project.

**3.4 Mitigation in Certain Mixed-Use Developments:** In the case of mixed-use developments involving 5 or more Dwelling Units, the Commission will consider separately the Affordable Housing impacts of the commercial and residential components of the project. The Affordable Housing impact of the commercial component will be calculated as above in section 3.2. The residential component of the project will be assessed in accordance with section 2B.<sup>14</sup> An applicant's mitigation should reflect the combined impact.

## 4. EXEMPTIONS

**4.1 Specific Exemptions:** This policy applies to all DRI applicants whose projects meets the parameters set out in this policy except:

- Towns, governmental and other publicly owned entities; and

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<sup>9</sup> Examples of housing to be provided might include rental units above first floor commercial space or a separate residential building on site for larger commercial or institutional projects.

<sup>10</sup> An off-site solution may be more appropriate than on-site housing if the carrying costs (eg taxes on the subject property) in the subdivision/town are out of an income-qualified applicant's reach, there is an identified need for types of housing other than that in the subdivision, or there is the potential for increased density and a greater number of housing units of at an off-site location.

<sup>11</sup> The Commission will determine the intensity of use based on the 2003 Martha's Vineyard Affordable Housing Nexus Study. Alternatively, the Commission, on recommendation from the LUPC or on its own initiative, may require an independent 'nexus' study to quantify the project's impacts on the need for additional housing.

<sup>12</sup> In the case of a DRI which does not propose new/additional square footage, mitigation will be determined based on the incremental impact of the project on housing needs.

<sup>13</sup> The "per sq ft" multiplier will be automatically adjusted biannually (commencing Jan 1, 2021) by [CPI].

<sup>14</sup> See example 3 in Appendix A.

- Non-profit organizations and quasi-publicly owned entities that can establish to the Commission’s satisfaction that the population to whom they provide social services is those who would qualify for Affordable Housing.

**4.2 Other Exemptions and Modifications:** The Commission may exempt an applicant from a mitigation requirement, or may modify such a requirement, if:

- (a) the applicant demonstrates that it is not feasible to meet any of the specified mitigation alternatives; or
- (b) the project’s impact on the need for additional Affordable Housing is negligible.

## 5. GENERAL PROVISIONS APPLICABLE TO DRIs

**5.1 Deed Restricted Housing:** All lots and housing provided in accordance with this policy (including existing housing provided in lieu) must be Deed Restricted.

**5.2 Year-Round and Short-Term Rentals:** Rentals of Affordable Housing must be for year-round occupancy, provided that rentals of Workforce Housing for Seasonal Employees may be for terms less than one year but in no event less than 90 days.

**5.3 Conveyance in Fee Simple:** Building Lots (including those with a Dwelling Unit) must be conveyed in fee simple and, in the case of off-site lots, must be suitable for the construction or establishment of Dwelling Units.

**5.4 Conditions of Direct Marketing by the Applicant:** If an applicant intends to directly market either for sale or lease Affordable Housing provided under this policy, it must:

- a. implement a plan to fairly market Affordable Housing units to potential buyers and/or renters;
- b. meet all relevant criteria to ensure that the affordable units qualify for the State’s Subsidized Housing Inventory;
- c. enter into an agreement with the Dukes County Regional Housing Authority (or other entity similarly qualified by the Department of Housing and Community Development to manage Affordable Housing) for the authority on an ongoing basis (as applicable) to:
  - i. verify and confirm income eligibility;
  - ii. certify the initial sales price, in the case of the sale of Affordable Housing, and rents, in the case of rental Affordable Housing, and;
  - iii. certify compliance with the plan referenced in section 6.3(a); and
  - iv. report non-compliance with the Commission.

Administrative costs which the authority may incur or charge to perform these services shall be paid by the applicant.

The applicant must provide a copy of the plan referred to in section 5.4(a) and the agreement referred to in section 5.4(c) as a condition of project approval. The Commission may waive any of the requirements of this section if compliance would be unduly burdensome.

**5.5 Accessibility and Visitability:** At least 10% of the Affordable Housing units provided in accordance with this policy, or one such unit (whichever is greater) must be either legally handicapped accessible unit(s) or unit(s) that meet the following visitability standards: one

entrance with zero steps; 32" clear passage through all interior main-floor doors; and at least one half-bath on the main floor.

**5.6 Demolition of Dwelling Units:** Any DRI project that proposes to demolish, repurpose or otherwise eliminate an existing residential structure must replace each unit of housing in the structure to be eliminated either on-site as part of the DRI project or off-site in appropriate circumstances. The replaced housing must generally be at least of similar size unless replacement with a different structure can provide a greater Affordable Housing benefit (eg a greater number of units). If any eliminated housing was Deed Restricted, the replaced housing must be similarly Deed Restricted. Replacement housing does not count toward any Affordable Housing mitigation contribution. The Commission will consider the condition and habitability of the housing in applying this section. In addition, if the residential structure to be eliminated is freestanding (ie it is not incorporated into a structure with other uses), the applicant must first make a good faith effort to move the structure off the property for reuse as Affordable Housing elsewhere on the Island. Such a good faith effort may include appropriate advertising of the availability of the structure free of charge for a reasonable period of time and a financial contribution to the new owner (if a non-profit organization) to defray moving costs.

**5.7 Exemption from Covenants:** The Commission may require Lots or Dwelling Units provided under section 2 (including Dwelling Units to be built by a third party and funded, in part or in whole by a monetary mitigation) to be free from any or all covenants applicable to other properties in the development that require the payment of fees or other assessments. Residents of Affordable Housing in a development must have the same rights as other residents in the development. The Commission may require applicants to ensure that association/subdivision agreements among homeowners may not be amended so as to increase the financial liability of occupants of Affordable Housing in the development for fees and costs without prior Commission approval.

**5.8 Implementation Aspects of Projects - Conditions of Approval:** The following matters, as applicable, shall be set out as conditions of approval by the Commission:

- a. the timing and provision of Buildable Lots and/or Dwelling Units (including off-site lots and units); and
- b. in the case of development by the applicant, the rate and time frame of Affordable Housing development; and
- c. the timing and manner of payment of monetary mitigation monies to a Housing Authority.

**5.9 Ongoing Compliance and Reporting:** The Commission may require the periodic reporting of information and/or the satisfaction of other measures to assist the Commission in determining compliance with this policy.<sup>15</sup>

## 6. DEFINITIONS

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<sup>15</sup> Conditions that may be imposed by the Commission will differ from project to project. For instance, the Commission may wish to require registration of the approved project plot plan with certain restrictions/conditions noted; annual reporting of employment data; review by the commission in the event that actual housing impact exceeds estimated impact or if there is a change of use or intensity of use. Note that conditions attach to the property, and subsequent owners will be bound by a Commission decision including any conditions.

**Affordable Housing** refers collectively to Low Income Housing, Moderate Income Housing, Community Housing and Workforce Housing.

**AMI** means the area median income for the County of Dukes County, as determined annually by the Federal Department of Housing and Urban Development.

**Buildable Lot** means a parcel of land on which regulations allow construction of a house without a variance or special permit, and which is capable of having a water supply (well or municipal water hook-up) and septic treatment (septic system or sewer hook-up) and, for the avoidance of doubt, does not include a lot that is subject to a permanent restriction which prevents development.

**Community Housing** means housing for individual(s) with an income eligibility restriction above 80% and up to 150% AMI.

**Construct or Construction**, in relation to Dwelling Units, includes both the construction of new units and the adaptation, redesign or reconstruction of an existing structure (whether residential or otherwise) which creates Dwelling Units or increases the number of Dwelling Units.

**Deed Restricted**, in relation to lots and housing units provided in accordance with this policy, means housing that will remain as Low Income Housing, Moderate Income Housing, Community Housing or Workforce Housing, as the case may be, in perpetuity through a deed restriction certified under Massachusetts General Law and recorded against title to the subject property.

**Dwelling Unit** includes principal dwellings, guest houses, and rooms for lease or rent.

**Housing Authority** means the Dukes County Regional Housing Authority, a local town Affordable Housing committee or another established local public or non-profit entity that the Commission is satisfied has a proven track record and the capacity to develop Affordable Housing.

**Low Income Housing** means housing for individual(s) with an income eligibility restriction of up to 50% of AMI.

**Moderate Income Housing** means housing for individual(s) with an income eligibility restriction above 50% and up to 80% AMI.

**Provide**, in relation to housing, means convey to a Housing Authority or convey or lease to individual(s) who are income-qualified for Affordable Housing.

**Seasonal Employees** means employees engaged for not less than a period of 90 days during the summer months.

**Workforce Housing** means housing restricted to year-round employees of the applicant or, in the case of employees of another employer operating on Island, those employees who earn not more than 150% AMI and, in the discretion of the Commission in appropriate cases, may also include Seasonal Employees.

**Appendix A**  
**Illustrative Calculations of Commercial Monetary Mitigation**

Multiply the Flat Rate of \$8 by the Total Square Footage by the Intensity Code for Development Type

Intensity Code	Development Type
1	Warehouse, Distribution, Wholesale
2	Gas Station/Repair, Offices, Professional Services,
3	Health Care / Medical
4	Retail
5	Restaurant / Food Service (Grocery Store)
	Other

**Example 1: Commercial**

5,400sq' commercial development for wholesale/storage space (with intensity code of 1)

$$5,400 \times 1 \times \$8 = \$43,200$$

**Example 2: Commercial**

7,000sq' commercial development for medical dispensary (with intensity code of 3)

$$7,000 \times 3 \times \$8 = \$168,000$$

**Example 3: Mixed Use**

4,000sq' commercial development for ground floor retail space (with intensity code of 4) and 5 housing units on the second floor

commercial:  $4000 \times 4 \times \$8 = \$128,000$

residential:  $10\% \times 5 = .5$  units (if provision of a unit is not feasible, monetary mitigation for the residential portion of the project would be calculated as set out in section 2B.2)

In this scenario, the Commission might consider the allocation of multiple Affordable Housing units to mitigate the combined Affordable Housing impacts.

**Appendix B**  
**Payments to a Housing Authority**

If an applicant pays any monetary mitigation to a Housing Authority for the development of Affordable Housing, it must direct that all such monies be used by the Housing Authority only as specified below.

1. Monetary mitigation paid to a Housing Authority may only be used for the following purposes:
  - a. Capital expenses including land acquisition costs for, and design, engineering and construction costs of, new Affordable Housing;
  - b. Programs offering housing assistance such as soft second mortgages, provided that there is shared equity to create new permanent affordable housing stock including a provision that funds would be repaid into the program upon sale of the property and that the property remains Deed Restricted Affordable Housing.
  - c. Project costs including soft costs directly related to the development of specific new Affordable Housing; and
  - d. Rental subsidies provided:
    - there are not enough opportunities to provide rental units that are Deed Restricted to Low Income or Moderate Income Housing; and
    - the rental subsidies are comparable in value to a long-term deed restriction (normally 30 years or more in Massachusetts).
2. For the avoidance of doubt, monetary mitigation paid to a Housing Authority must not be used for any of the following purposes:
  - a. maintenance, heat, electricity, or other operating costs of existing Affordable Housing;
  - b. general studies or planning; or
  - c. administration, staff salaries or other compensation, or other overhead.
3. Monetary mitigation funds may only be used to mitigate new housing impacts.
4. Monetary Mitigation monies shall be placed in a segregated fund and those funds not used for the designated purpose should be returned to the DRI applicant at the end of 7 years.