

From: Derrill Bazy [mailto:dbazzy@ihtmv.org]
Sent: Wednesday, March 20, 2019 12:48 PM
To: Lucy Morrison <morrison@mvcommission.org>
Cc: Philippe Jordi <pjordi@ihtmv.org>; Mike Hebert <mikerhebert52@gmail.com>; Sophia Welch <sophia.welch.14@gmail.com>
Subject: Fwd: MVC comments from DB

Hi Lucy, I'm sorry about the rustic nature of my comments, but hopefully some small part of this can be helpful. I've only attached the three pages that I marked up. All the best, Derrill

Sent from my iPhone

Begin forwarded message:

From: Derrill Bazy <dbazzy@vineyard.net>
Date: March 20, 2019 at 12:29:27 PM EDT
To: Derrill Bazy <dbazzy@ihtmv.org>
Subject: MVC comments from DB

Hi Lucy — Here are some thoughts and questions for the MVC's consideration. I will not be able to be present tonight. Thanks! —Derrill

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.

separate category?
↓
must show need based not in another's fashion.
~~that it takes~~

impl.

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.³

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.

— see 2A.1

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, G.L.c 40B, which establishes an objective of 10% of housing units in the affordable category.⁴

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 Lots⁵ in the division or subdivision; and/or

This section needs to be emphasized.

³ 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.

⁴ 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.

⁵ 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.

Be more specific: could be off-island as restriction.

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 2.2.2.⁶

or rounded up for property count at applicant's discretion

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.

strengthen/clarify maybe say: "notwithstanding any deed restriction placed on said property"

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.⁷ (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.

these lots need to be deed restricted at time of permitting by WRC.

⁶ 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.

⁷ 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 Units⁸ 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 housing⁹ to accommodate the Affordable Housing impact of the project; and/or

has to be done

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