



DRI CHECKLIST

STANDARDS AND CRITERIA

Standards & 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 14A

Note: This version corrects omissions and inconsistencies in Version 14 affecting sections 3.4.e, 8.1, footnote 10, and several internal references.

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Table of Contents

1. General Information About This Policy (including definitions)
2. Division or Subdivision of Land (including A.N.R.)
3. Development of Business, Commercial, Industrial and Mixed-Use Land and Buildings
4. Residential Development
5. Developments in or Adjacent to Harbors, Great Ponds, Ponds or Oceans
6. Institutional Developments, Places of Assembly, and Municipal Facilities
7. Transportation Facilities and Infrastructure
8. Developments Affecting Natural or Cultural Resources
9. Communication and Energy Facilities

Attachment A: Possible Factors Warranting Discretionary DRI Referral

Attachment B: Maps

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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**¹ 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 Commission². (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 Checklist³. Each type of referral triggers a different procedure.⁴ The different types of referrals and applicable procedures are set out below.

¹ **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 1.5 to determine whether this Checklist covers a proposed activity.

² 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.

³ **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.

⁴ 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.⁵ 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,

⁵ 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 **Division or 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 division/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. Note that all defined terms appear in the text in **bold**.

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.

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).

Deed Restricted, in relation to housing, means that housing that will remain as Low Income Housing, Moderate Income Housing, or Community Housing (as those terms are defined in the MVC's Housing Policy), as the case may be, in perpetuity to the maximum extent permitted by law through a deed restriction certified under Massachusetts General Law and recorded against title to the subject property.

Demolition means any act of pulling down, destroying, removing, or razing any building or a portion thereof, 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 **Division or Subdivision 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 or Subdivision 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**.

Dwelling Unit means a structure used in whole or in part for human habitation and includes a tent, a mobile home, and, where the context permits, a room for lease or rent.

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 B-3)

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 (including the basement) 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.

Island Plan: The Martha's Vineyard Island Plan, the regional plan of the Island adopted by the Martha's Vineyard Commission 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 B-4)

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

- Primary Rare Species Habitat, as defined by the Massachusetts Natural Heritage and Endangered Species Program; or
- Core Habitat, as set out in Biomap2 as determined by the National Heritage and Endangered Species Program; or
- Critical, Intact Source, or Minimally Disturbed Source Habitat, according to the Biodiversity analysis performed by The Nature Conservancy and the Commission and as defined in the **Island Plan**.

(See attached map B-5)

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):

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

2. DIVISION OR SUBDIVISION OF LAND (Including ANRs)

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

Any **Division or Subdivision of Land** that is located in a business, commercial or industrial zoning district. (See attached map B-1)

–Mandatory Referral Requiring MVC Concurrence

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

Any **Division or Subdivision of Land** that results in any of the following:

a. 5 or more **Parcels** not in a rural area (See attached map B-2)

–Mandatory Referral and MVC Review

b. 3 or more **Parcels** of land in a rural area. (See attached map B-2)

–Mandatory Referral Requiring MVC Concurrence

If all of the **Parcels** described in section a. above are **Deed Restricted** for housing, the threshold for DRI review is increased from 5 to 10, provided that each **Parcel** when developed:

- (i) must comply with the MVC Water Quality Policy, in effect as at the date of the DRI application; or
- (ii) must be approved for connection to the Town sewer prior to construction of any **Dwelling Unit**; or
- (iii) must install a waste treatment facility with a guaranteed (or State certified) nitrogen effluent removal performance equivalent to that of the Town sewer,

in each case as determined by the MVC Water Resource Planner. Compliance with this section must be recorded on the deed for each **Parcel**.

2.3 Division of More than 10 Acres

Any **Development** that proposes to divide land in **Contiguous Related Ownership** of ten (10) acres or more. However, for land that was not the result of a division that took place since January 1, 1974, divisions into the following number of **Parcels** on which a structure may be erected are exempted from referral provided they are irrevocably prohibited from further subdivision:

- a. for land greater than 10 acres and no greater than 16 acres – up to two (2) such **Parcels**; or
- b. for land greater than 16 acres and no greater than 22 acres – up to three (3) such **Parcels**; or
- c. for land greater than 22 acres and no greater than 30 acres – up to four (4) such **Parcels**; or
- d. for land 30 acres or more – up to five (5) such **Parcels**

–Mandatory Referral and MVC Review

2.4 Division of Current, Former, or Potential Farmland (See attached map B-3)

Any **Division or Subdivision of 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 is either:

- a. currently **Farmland** or has been worked as **Farmland** at any time since January 1, 1971

–Mandatory Referral and MVC Review

- b. identified as **Prime Agricultural Soils**. (See attached map B-4)

–Mandatory Referral and MVC Review

2.5 Division of Habitat

- a. Any **Division or Subdivision of Land** that includes more than 2 acres of **Significant Habitat**. (See attached map B-5.)

–Mandatory Referral Requiring MVC Concurrence

2.6 ANRs

Any Form A - Approval Not Required (ANR):

- a. that results in 3 or more **Parcels** (including **Parcels** created within the prior 5 years by ANR or by any **Division or Subdivision of Land**); or

–Mandatory Referral Requiring MVC Concurrence

- b. located in the Island Road DCPC or Coastal DCPC.

–Mandatory Referral Requiring MVC Concurrence

3. DEVELOPMENT OF COMMERCIAL, STORAGE, INDUSTRIAL, AND OFFICE USES INCLUDING MIXED WITH RESIDENTIAL

3.1 Commercial, Storage, Office, Industrial and/or Mixed-Use Development

Any **Development** of a commercial, storage, industrial, and/or office use, including any use of any of the foregoing mixed with a residential use, provided that one or more of the following thresholds are met:

- a. new construction totaling more than 2,500 sq ft but less than 3,500 sq ft or more of commercial, storage, industrial, and/or office **Floor Area** in one or more buildings (including **Floor Area** of any residential use mixed with any of the foregoing)
–Mandatory Referral Requiring MVC Concurrence
- b. new construction totaling 3,500 sq ft or more of commercial, storage, industrial, and/or office **Floor Area** in one or more buildings (including **Floor Area** of any residential use mixed with any of the foregoing)
–Mandatory Referral and MVC Review
- c. new construction of building addition(s) or auxiliary building(s) (i.e. a building giving support, help, aid, assistance, or which is subsidiary, incidental or additional, to an existing building) totaling 1,000 sq ft of **Floor Area**, resulting in a combined total of 2,500 sq ft or more of **Floor Area**
–Mandatory Referral Requiring MVC Concurrence
- d. any combination of new construction totaling 1,000 sq ft or more of **Floor Area** and ‘outdoor commercial space’⁶, resulting in a combined area of 2,500 sq ft or more of **Floor Area** and land area
–Mandatory Referral Requiring MVC Concurrence
- e. new or expanded ‘outdoor commercial space’⁷ of 6,000 sq 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** (either partial or complete), 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. a new parking area that provides spaces for 10 or more vehicles
–Mandatory Referral Requiring MVC Concurrence
- i. the expansion of an existing parking area by the addition of (i) spaces for 10 vehicles or (ii) 30% of the number of existing spaces (including any additional spaces added within the prior 3 years), whichever is less, provided that a parking area with fewer than 10 spaces after an expansion does not require referral
–Mandatory Referral Requiring MVC Concurrence
- j. 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

⁶ ‘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.)

⁷ See footnote 6.

3.2 Exclusion of Square Footage for Residential Uses

In a mixed-use **Development** described in section 3.1.a, b, c and d, up to 1,600 sq ft will be excluded from the **Floor Area** calculation if the square footage is used for **Dwelling Units** that are **Deed Restricted** and rental terms are not less than 6 months.

3.3 Exceptions to Section 3.1

Section 3.1 does not apply to:

- a. strictly residential **Developments** (See section 4); or
- b. **Development** inside the Airport Business Park, which is regulated by the Development Agreement, dated August 5, 1998, between the Commission and the Martha's Vineyard Airport Commission (or any successor agreement), 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.

3.4 Other Specific Commercial, Storage, and Industrial Facilities

Any **Development** for a new or proposed expansion of any of the following:

- a. a vehicular refueling or repair station⁸, 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 or food establishment in a business or commercial zoned district that is designed for, or proposes to expand to, 50-99 seats, whether indoor or outdoor, if the establishment is not connected to a municipal sewer system.
–Mandatory Referral Requiring MVC Concurrence
- e. a restaurant or food establishment in a business or commercial zoned district that is designed for, or proposes to expand to, 80-99 indoor/outdoor seats, if the establishment is connected to a municipal sewer system.
–Mandatory Referral Requiring MVC Concurrence
- f. a restaurant or food establishment in a business or commercial zoned district that is designed for, or proposes to expand to 100 or more indoor/outdoor seats
–Mandatory Referral and MVC Review

⁸ This Checklist item does not include electric charging stations that are ancillary to an unrelated commercial use.

- g. a restaurant or food establishment outside a business or commercial zoned district
–Mandatory Referral Requiring MVC Concurrence
- h. any “formula retail” business (i.e. a business 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).
–Mandatory Referral Requiring MVC Concurrence
- i. 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

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 or make available any of the following:

- a. 5 or more **Dwelling Units** including guest houses (i.e. a subordinate dwelling in common ownership with the principal dwelling on the same **Parcel**)
–Mandatory Referral Requiring MVC Concurrence
- b. 5 or more individual leases or rental agreements (of any term) for a room or rooms (where all rooms covered by a single lease count as a single **Dwelling Unit**)
–Mandatory Referral Requiring MVC Concurrence
- c. any combination of **Dwelling Units** including guest houses, or leased or rented rooms totaling 5 or more such units/rooms (where all rooms covered by a single lease count as a single **Dwelling Unit**).
–Mandatory Referral Requiring MVC Concurrence

If all of the **Dwelling Units** and/or rooms for lease in a **Development** are **Deed Restricted**, the threshold for DRI review is increased from 5 to 10, provided that the **Development**:

- (i) must comply with the MVC Water Quality Policy, in effect as at the date of the DRI application; or
 - (ii) must be approved to be connected to the Town sewer prior to construction of any **Dwelling Unit**; or
 - (iii) must install a waste treatment facility with a guaranteed (or State certified) nitrogen effluent removal performance equivalent to that of the Town sewer,
- in all cases, as determined by the MVC Water Resource Planner.

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, or armoring of coast), or any improvement or alteration to any existing such development, 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 (See attached map B-6); or
- c. the ocean.

–Mandatory Referral Requiring MVC Concurrence

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 of Use** or a **Change in Intensity of Use** of a commercial pier.

–Mandatory Referral Requiring MVC Concurrence

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 any of the following:

- 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

–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 either:

- a. a **Floor Area** of 3,500 sq ft or more⁹

–Mandatory Referral and MVC Review

- b. the capacity to accommodate more than fifty (50) individuals (as defined by the State Building Code).

–Mandatory Referral Requiring MVC Concurrence

6.2 Municipal, Governmental and Other Public Facilities

⁹ This Checklist item is triggered if the **Floor Area** of the proposed expansion, together with that of the existing facility, exceeds the 3,500 sq ft threshold. It also applies if to any expansion of an existing facility that is not already a DRI but exceeds the threshold with the expansion.

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 designed primarily to serve the residents of more than one Town (excluding facilities with only incidental use by residents of more than one town) with either:

- a. a Floor Area of 3,500 sq ft or more¹⁰

–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** that proposes the construction, expansion or alteration of:

- a. facilities or infrastructure that provide for, or are ancillary to the provision of, transportation to or from the Island of Martha’s Vineyard

–Mandatory Referral and MVC Review

- b. facilities or infrastructure that are or will be part of a transportation system or network between two or more Island towns or between two or more principal roads

–Mandatory Referral Requiring MVC Concurrence

- c. any principal road.

–Mandatory Referral Requiring MVC Concurrence

For the purposes of this section 7.1, the term “**Development**” also refers to facilities for transportation by air, land and water (including runways, terminals, staging areas, ticket offices, bus stations, docks, parking facilities, bicycle paths, electric charging stations, and bridges). For private piers and docks, see section 5.1.

8. DEVELOPMENTS AFFECTING NATURAL OR CULTURAL RESOURCES

8.1-A Demolition or Relocation of Historic Structures

Any **Demolition** or relocation of a structure that either:

- 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

–Mandatory Referral and MVC Review

- b. is more than 100 years old.

–Mandatory Referral Requiring MVC Concurrence

8.1-B Alteration of Historic Structures

¹⁰ Footnote 9 applies to this section as well.

Any proposed exterior alteration of a structure that meets either of the criteria set out in section 8.1-A where the alteration comprises at least 25% of the historic portion of the façade. Façade means any exterior surface of the structure including roofs. The 25% would be cumulative, including any permits for alterations issued in the preceding 5 years.

–Mandatory Referral Requiring MVC Concurrence

NOTE: Sections 8.1-A and 8.1-B do not apply to structures located within:

- established historic districts and which are already protected by local historical or architectural 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 Archaeology¹¹

Any **Development** that proposes:

- a. the **Division or Subdivision of Land** that is identified by any state, federal or local agency as being of archaeological significance

–Mandatory Referral Requiring MVC Concurrence

- b. any disturbance (e.g. excavation, digging, drilling, vegetation removal) to the surface of any land described in a. above

–Mandatory Referral Requiring MVC Concurrence

8.3 Significant Habitat (See also section 2.5 and attached map B-5)

Any **Development** that proposes the **Site Alteration** of more than 1 acre of **Significant Habitat**.

–Mandatory Referral Requiring MVC Concurrence

8.4 Developments within a Coastal DCPC (See attached map B-7)

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

- 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

- 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 if the Town regulations approved for that DCPC require referral to the Commission.

–Mandatory Referral Requiring MVC Concurrence

¹¹ Applicants are encouraged to seek **prior** advice from the Massachusetts Historic Commission as to potential archaeological resources at or near the proposed project site and whether further surveying may be required.

8.6 **Current, Former, or Potential Farmland** (See also section 2.4 and attached map B-3)

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 either:

- a. currently **Farmland** or has actively been worked as **Farmland** at any time since January 1, 1974
–Mandatory Referral Requiring MVC Concurrence

- b. identified as **Prime Agricultural Soils**. (See attached map B-4)
–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 and MVC Review

- b. Any reconstruction, replacement, or reconfiguration of equipment of an existing 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 any of 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):

- a. a facility whose height is more than 150 feet
–Mandatory Referral and MVC Review

- b. a facility located in the Wind Ocean Zone (comprising the Exclusionary Area and the Area of Special concern) (See attached map B-8)
–Mandatory Referral and MVC Review

- c. a facility located in the Wind Land Zone (comprising the Exclusionary Area and the Area of Special Concern) (See attached map B-9)
–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 with an array footprint greater than 25,000 sq 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.)

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

- ✓ Will there be a material 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 Commission's Water Quality Management Policy?
- ✓ Will the project cause or increase any storm water discharges into wetlands or water bodies?
- ✓ Will the project interfere with any existing public access to the shoreline?
- ✓ Will the project displace any water-dependent use?
- ✓ 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?
- ✓ Will the project create any disturbance or alteration of a wetland or vernal pool or their buffer zones?
- ✓ 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

- ✓ 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 1,000 sq ft (based on the rates issued by the Commission or, if unavailable, by the Institute of Transportation Engineers).
- ✓ 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.
- ✓ 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?

- ✓ Will the project create any traffic safety problems?

Affordable Housing

- ✓ How will the project impact the need for Affordable Housing and Community Housing (including Elder Housing and Workforce Housing)?
- ✓ How will the project impact the need for year-round (as opposed to seasonal) housing?
- ✓ Will the project displace existing year-round housing?

Open Space and Habitat

- ✓ Will the project disturb the habitat of any rare or endangered plant or wildlife?
- ✓ Will the project reduce the amount of open space on the site to below 65 percent in **Significant Habitat** areas, or 40 percent in other areas?
- ✓ Will the project disturb or disrupt open space on or abutting the site?

Sustainability

- ✓ Will the project discharge noise, odors or other noxious emissions?
- ✓ Will the project use a significant amount of non-renewable energy?
- ✓ Will there be a serious increase in the use, storage, treatment, disposal or generation of hazardous materials or wastes?

Visual, Cultural, and Community

- ✓ 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?
- ✓ 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)?
- ✓ 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)?
- ✓ Will the project obstruct historic or ancient ways?
- ✓ 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

- ✓ 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

- ✓ 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?
- ✓ Are there any other factors peculiar to this project that might indicate a regional impact?

The staff of the Commission 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.

ATTACHMENT B

MAPS

How to Use the Maps in this Appendix

The maps on the following pages are provided for guidance and general planning purposes only. For greater granularity, the Commission’s web site, <https://www.mvcommission.org/dri-checklist-maps-v14>, provides a link to an interactive access platform that enables zooming in for greater detail. However, neither the attached maps nor the interactive platform maps are intended to definitively set out specific areas, boundaries or locations. Applicants should contact the Commission to determine the specific areas, boundaries and locations applicable to their DRI.

Maps specify source materials and other information to aid in interpretation. Applicants are encouraged to refer to this information.

Areas, boundaries and locations relevant to a DRI will be determined as of the date of a DRI application – and **not** the date of the maps attached to this Checklist).

Index to Maps	Section Reference
B-1 Zoning Districts: Business, Commercial, & Industrial	2.1
B-2 Rural Area	2.2
B-3 Farmland	2.4 and 8.6
B-4 Prime Agricultural Soils	2.4 b. and 8.6 b.
B-5 Significant Habitat	2.5
B-6 Great Ponds	5.1 b.
B-7 Coastal DCPC & 500ft MHW Buffer	2.6 and 8.4
B-8 Wind Ocean Zone	9.2 b.
B-9 Wind Land Zone	9.2 c.

37



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