

Paul Foley

From: Philippe Jordi [pjordi@ihtmv.org]
Sent: Sunday, December 22, 2013 6:13 PM
To: Paul Foley
Cc: Mark London; Christine Flynn
Subject: 6 Water Street, VH
Attachments: dec DRI 616 AA Car Rental Five Corners.pdf; ATT00004.htm; clip_image002.png; ATT00007.htm

Paul,

The Island Housing Trust will be working with the Town of Tisbury to apply for a "friendly" 40B comprehensive permit through the state DHCD and the Tisbury ZBA for a proposed 3,600 square foot 5 unit apartment building with one parking space at 6 Water Street in Vineyard Haven.

I don't believe that our proposed project will meet the MVC's threshold for a DRI review, but understand that the property was once a DRI. Based on your conversation with Pat Harris below I would like to request that the MVC rescind the prior DRI 616 decision, and allow the Town of Tisbury the discretion to determine whether the project is an increase in intensity of use.

Please tell me if you need any additional information for the MVC to consider this request.

Thank you & happy holidays!

Philippe

Begin forwarded message:

From: Paul Foley [<mailto:foley@mvcommission.org>]
Sent: Wednesday, November 20, 2013 1:15 PM
To: Pat Harris; Ken Barwick
Subject:

Pat,

In response to your request made by telephone about the status of the property located at 6 Water Street (Map 7-F-9 – 0.11 acres) in Vineyard Haven I will offer the following:

1. Prior to 2010 any property that had a DRI Decision on it was "Once a DRI always a DRI".
2. In 2010 the MVC changed that to allow projects that were either denied or expired without being developed to be released from the "Once a DRI always a DRI " status.
3. In the case of DRI 616 it was approved on July 24, 2008 by the MVC and the Written Decision was approved on August 14, 2008 with a two-year sunset.
4. However, the State Permit Extension Act (see below) automatically extended that approval two more years to August 14, 2012.
5. The State Permit Extension Act was extended another two years ([Section 173 of Chapter 240 of the Acts of 2010](#)) so technically the DRI 616 Decision is good until August 14, 2014.
6. Technically the property is still a DRI.
7. Since this is a different applicant with a different project they may prefer to request that the MVC rescind the DRI 616 Decision.

8. The question of whether or not the project is an increase in intensity of use is left to the discretion of the local permitting board (There is a definition in the DRI Checklist)

I hope this is helpful. Let me know if I can be of any further assistance.

Paul

STATE PERMIT EXTENSION ACT

SECTION 173...certain regulatory approvals are hereby extended... any permit... or other approval... from any municipal, regional or state governmental entity, including... commission... inclusive, of chapters...40A to 40C, inclusive, 40R... during the tolling period beginning August 15, 2008, and continuing through August 15, 2010...an approval in effect or existence during the tolling period shall be extended for a period of 2 years, in addition to the lawful term of the approval.

(2) However: Nothing in this section shall be deemed to extend or purport to extend:

- (i) a permit or approval issued by the government of the United States ...or
- (ii) a comprehensive permit issued by a board of appeals ...inclusive, of chapter 40B of the General Laws; or;
- (iii) a permit, ... by the division of fisheries and wildlife

(3) Nothing in this section shall affect the ability of a ... regional ...governmental entity, ... to revoke or modify a specific permit or approval or extension of a specific permit ...when that specific permit ... contains language authorizing the modification or revocation...

4) In the event that an approval ... is based upon the connection to a sanitary sewer system, the approval's extension shall be contingent upon the availability of sufficient capacity...

(5) In the case when an owner or petitioner sells or otherwise transfers a property or project, in order for an approval to receive an extension, all commitments made by the original owner or petitioner under the terms of the permit must be upheld by the new owner or petitioner...

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