2020 Standards and Criteria (DRI Checklist) Revision
Executive Summary

DRI Checklist Review Committee - August 29, 2020

Section 2. Division of Land not in a Business, Commercial or Industrial Zone

Section 2.2

Existing

2.2 Any Development which proposes to divide land in Contiguous Related Ownership into the following number of lots or Parcels:

a) in all areas ten or more lots or parcels; and
b) in Rural Areas six to nine lots or Parcels.

Proposed

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
b) 3 or more Parcels of land in a 'rural area" (see map B-2).

NEW:

Line 227 sec. 2.2 **Alternative/Addition:** Add the following language at the end of section 2.2 to essentially mirror the language at the end of section 4.1:

> "If all of the Parcels described in section a. above are deed restricted for affordable and/or community housing, the threshold for DRI review is increased from 5 to 10, provided that each Parcel is similarly restricted to compliance with the MVC Water Quality Policy in effect at the time of development as determined by the Water Quality Resource Planner."

These two changes recognize that many impactful developments happen on smaller acreage as the island approaches build-out and that developments of this size may well have regional impacts particularly with regard to wastewater and housing.

Section 2.3: Existing section 2.3 exempting limited divisions of large acreage Parcels has been eliminated. (and the sections following it have been re-numbered)

By lowering the number of lots in 2.2 the committee decided to eliminate the acreage trigger in this section. As there is no longer such a trigger, the exemption is no longer relevant.

NEW:

Line 237 sec 2.3A **Alternative:** Re-insert previous section 2.3, which reads:

> **"Division of More than Ten 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 Buildable Lots are exempted from referral provided they are irrevocably prohibited from further subdivision:
>
> 1. a) for land greater than 10 acres and no greater than 16 acres – up to two (2) lots; or
> 2. b) for land greater than 16 acres and no greater than 22 acres – up to three (3) lots; or
> 3. c) for land greater than 22 acres and no greater than 30 acres – up to four (4) lots; or
> 4. d) for land 30 acres or more – up to five (5) lots."

Section 2.5

Existing (section was renumbered, previously 2.6)

2.5 **ANRs:** Any Form A- Approval Not Required (ANR) creating three (3) or more lots or located in the Island Road DCPC or Coastal DCPC – with MVC Concurrence

Proposed

2.5 **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**

This revision enables review of cumulative developments by sequential ANRs, recognizing that, while individual ANRs are not likely to create regional impact, when viewed in aggregate they might.

<u>Section 3. Commercial Development</u> (*Note:* The general threshold remains at 3500sq ft.)

Section 3.1: Section 3.1.a and b. have swapped positions

The swap highlights that developments from 2500 sq ft to 3499 sq ft are Concurrence reviews and 3500 and above are Mandatory reviews.

NEW: Line 250 sec 3 **Proposed revision for clarification:** Change header to read:

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

Line 254 sec 3.1 intro **Proposed revision for clarification**: Amend to read:
"Any **Development** of a commercial, storage, industrial, and/or office use, including any mixed use of any of the foregoing with a residential use, provided that one or more of the

Line 257 sec 3.1 a. **Proposed revision for clarification**: Amend to read:

"a. new construction totaling more than 2500 sq ft, but less than 3,500 sq ft, of commercial, storage, industrial, and/or office **Floor Area** in one or more buildings, including **Floor Space** of any residential use mixed with any of the foregoing

Line 261 sec 3.1 b. **Proposed revision for clarification**: Amend to read:

"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 Space** of any residential use mixed with any of the foregoing (and including containers used for storage or active space)

Line 278 sec 3.1 f. **Proposed revision for clarification**: Amend to read:

"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

Line 285-7 sec 3.1 h. **Alternative:**

"a new parking area that provides spaces for 10 or more vehicles, or the expansion of an existing parking area by the addition of the lesser of (i) spaces for 10 vehicles or (ii) 30% of the number of existing spaces (including additional spaces added within the prior 3 years)."

Section 3.1.A This is the former 3.2 section on mixed use with the sq ft allowance reduced from 2000sq ft to 1400 sq ft

Existing

3.2 Mixed Use Development

a) New construction totaling 3500 sq ft or more of mixed-use (commercial and residential) Floor Area in one or more buildings- with MVC Concurrence

b) Any Development, including the expansion of an existing development that proposes to create four or more units which mix residential and business, office or industrial uses. In a mixed use Development, up to three dwelling units shall be excluded from the Floor Area calculation for non-residential use up to 2000 sq ft provided the residential space is permanently restricted to remain a residential and rental terms are not less than six months.

Proposed

3.1.A In a mixed-use Development described in sections 3.1.a, b, c, and d, the square footage of up to 2 **Dwelling Units** (but not to exceed 1400 sq ft) will be excluded from the **Floor Area** calculation if the **Dwelling Units** are permanently restricted for residential use and the rental terms are not less than 6 months.

NEW:

Line 294	sec 3.1A	**Proposed revision for clarification:** Add a heading: "**3.1A Exclusion of Square Footage for Residential Uses"**
Line 295	sec 3.1A	**Alternative:** Change the excluded square footage from 1400sq' to 1600sq'.

The current trigger exempts from review a mixed-use structure as large as 5500 sq ft. Despite the importance of providing an incentive for residential construction, the Checklist Review Committee felt that such a large mixed-use development might have potentially significant regional impact. Accordingly, the Committee decided to propose a lower threshold by reducing the exempted residential square footage to 1400 - space adequate for two small units.

Section 3.2 a): This section has been added for clarity.

Section 3.2 b): This section previously appeared as a note at the end of former section 3.1.

Section 3.2 c) This section previously appeared as former section 3.3. It has been revised to eliminate specification of the square footage threshold, as it is assumed that all relevant thresholds will be set out in any Commission- and Town-approved Area Development Plan.

Please note Section 3.2 from the previous Checklist regarding Mixed Use Developments has been eliminated and replaced by 3.1.A (Please see above)

Section 3.3 d): This was previously section 3.4 d)

Existing

3.4 d) A public restaurant in a B-1 zoning district that is designed for, or proposes to expand to fifty (50) or more seats, as permitted by the Town Board of Health. With MVC concurrence

Proposed

3.3 d) A restaurant or food establishment in a business or commercial zoned district that is designed for, or proposes to expand to, 80 or more indoor/outdoor seats, as permitted by the Town Board of Health

–**Mandatory Referral and MVC Review**

NEW:

Line 326-8 sec 3.3 d **Alternative:** Change this proposed subsection (ie 80 or more seats) from **Mandatory Referral and MVC Review** to **Mandatory Referral Requiring MVC Concurrence** and add a further subsection making 100 or more indoor/outdoor seats as **Mandatory Referral and MVC Review.** (Remaining subsections would need to be re-lettered.)

> The Checklist Review Committee felt that town commercial infrastructure (parking and transportation) could support, and towns could regulate, restaurants of up to 79 seats on their own. The Committee also clarified this as "business or commercial district" as some town areas allowing restaurants are not always named B-1.

Section 3.3 e): This was previously section 3.4 e)

Existing

3.4 e) any public restaurant or food establishment outside of a B-1 zoning district -- with MVC Concurrence

Proposed

3.3 d) a restaurant or food establishment outside a business or commercial zoned district that is designed for, or proposes to expand to, 50 or more indoor/outdoor seats, as permitted by the Town Board of Health

–**Mandatory Referral and MVC Review with MVC Concurrence**

NEW:

Line 330-32 sec 3.3 e **Alternative:** Revert to existing checklist trigger. As conformed with other clarifying amendments, it would read:

"any public restaurant or food establishment outside of a business or commercial zoned district – **Mandatory Referral Requiring MVC Concurrence**"

> Previously, any restaurant outside of the B-1 had to be reviewed. This revision now only requires review of restaurants of 50 or more seats. The Checklist Review Committee felt that a food establishment under 50 seats would have a limited Island wide impact.

Section 4. Residential Development

Section 4.1
NEW

Line 353 sec 4.1 a. **Proposed revision for clarification:** To avoid confusion with guest houses as lodging, insert after the appearance of the words "guest houses" the following:

"(ie a subordinate dwelling in common ownership with the principal dwelling on the same Parcel)"

Line 356 sec 4.1 b **Proposed revision for clarification:** Amend to read:

"5 or more individual leases or rental agreements <u>(of any term)</u> for <u>a room or</u> rooms <u>(where all rooms covered by a single lease count as a single **Dwelling Unit**)</u>"

Line 356 sec 4.1 c. **Proposed revision for clarification:** Amend to read:

"Any combination of **Dwelling Units** including guest houses or <u>leased or rented</u> rooms totaling 5 or more <u>such</u> units/rooms <u>(where all rooms covered by a single lease count as a single **Dwelling Unit**)</u>."

Proposed: Reduced the multi-unit threshold from 10 to 5 units in all cases. Added the following exception:

> If all of the **Dwelling Units** and/or rooms for lease in a Development are deed restricted for affordable housing and/or community housing, the threshold for DRI review is increased from 5 to 10, provided that the Development complies with the MVC Water Quality Policy, as certified in writing by the Board of Health in the town in which the Development is located. For the purposes of this provision, the terms 'deed restricted', 'affordable housing' and 'community housing' have the meanings defined in the MVC Housing Policy.

NEW

Line 365-66 sec 4.1 (end¶) **Alternative**: Amend "as certified in writing by the Board of Health in the town in which the **Development** is located" to read:

"<u>as determined by the MVC Water Resource Planner</u>"

Line 365-66 sec 4.1 (end¶) **Alternative:** Amend to read:

"provided that the **Development** (i) complies with the MVC Water Quality Policy, as determined by the MVC Water Resource Planner or (ii) will be connected to the Town sewer prior to construction of the Dwelling Units or (iii) will be using waste treatment facilities with a guaranteed (or State certified) nitrogen effluent removal performance equivalent to that of the sewer system"

The Checklist Review Committee felt that market rate housing developments may present regional impacts (including wastewater and housing) and that a lower trigger point would enable the MVC to require mitigation where appropriate. However, the committee recommends retaining the former threshold for Affordable and Community housing.

Section 4.2 This is a placeholder for a future trigger for large residential buildings.

As outlined in the opening statement, this item has been removed from consideration at this time. The intention is to complete consideration of this item and propose a revision to the Checklist prior to the next 2 year revision. When the MVC concludes its consideration of this item and establishes a procedure. This additional item will undergo the same public hearings on the text and Commission approval, and then the Commission will submit the revision for state approval.]

Section 6. Institutional Development

Section 6.2

Existing

Any Development by a governmental or other publicly owned or quasi-publicly owned entity that will serve the residents of more than one Town

Proposed

Any Development that proposes the creation or expansion of a social, health, recreational or educational facility 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)

–**Mandatory Referral Requiring MVC Concurrence**

The Checklist Review Committee feels the text from Checklist Version 12 is more appropriate and has reverted to that language. In addition, the Committee proposes that minor services provided to residents of other towns do not have sufficient 'regional impact' to warrant DRI review. Finally, the revision changes the review from Mandatory to Concurrence.

Section 7. Transportation

Section 7.1

Existing The note on this section reads: "For the purposes of this section, the term "Development" shall refer to facilities for transportation by air, land and water and shall include, but not be limited to: runways; terminals; staging areas; ticket offices; docks; the construction, widening or reconfiguration of Arterial and Collector Roads; parking facilities; bicycle paths; and bridges."

Proposed
The note is now incorporated in the main text. In addition, the term 'Arterial and Collector Roads' has been simplified to any 'principal road' and this is now covered in a new section 7.1 c.

> In recognition of the effect that traffic and transportation have on the island, we have chosen to emphasize the review of roads by taking it from the note and enumerating it. It has also been changed from "Arterial and Collector" to principal road to be more inclusive.

Section 8. Natural or Cultural Resources

Section 8.1.b
Existing
The Demolition of any structure that:
…
b. was constructed before January 1, 1900
[Note: The definition of Demolition was "Any act of pulling down, destroying, removing or razing any building or a substantial portion thereof (more than 50% of the floor area of the historic portion or 25% of any façade of the historic portion visible from the public way) with or without the intent to replace the structure so affected.]

Proposed
Any **Demolition** (or any exterior alteration of an historic or architecturally significant feature, as determined by a local Historic Commission) or relocation of a structure that either:
…
b. was constructed before January 1, 1920.

NEW:

Line 459	sec 8.1 b.	**Alternative 1:** Revert to trigger in the Checklist, version 12, which read: "is more than 100 years old"
Line 459	sec 8.1 b.	**Alternative 2:** Revert to existing trigger (Checklist version 13) which reads: "was constructed before January 1, 1900"

> Recent developments have made us aware that it is not just demolition that needs to be reviewed, but other aspects of alterations to or relocation of historic structures may also have negative impacts. Previously, the inclusion of alteration was in the definition of "demolition" but not spelled out in 8.1. In addition, the 1900 cutoff for demolitions has been changed to 1920 in an effort to preserve the conceptual approach of a 100-year cutoff. The Checklist Review

Committee felt that having a date certain was a better trigger than "100 years". (If this revision is approved, a corresponding amendment will be made to the Demolition Policy.)

Section 8.2 b: Clarifies review to any project on archeologically significant land.

Existing: Archeology: Any Development or excavation that proposes the division or subdivision of land or the clearing or topological Alteration of land that is identified by any state or federal or local agency as being of archaeological significance

Proposed:

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 (eg excavation, digging, drilling, vegetation removal) to the surface of any land described in a. above

–**Mandatory Referral Requiring MVC Concurrence**

The Checklist Review Committee felt that 8.2 could be construed to mean that it only applied to the division of land. The proposal would include all development on archeologically significant land. This conforms to our current practice.

Section 8.3: The trigger for any site alteration of Significant Habitat has been reduced from 2 acres to 1 acre.

With increased development and climate change threatening these resources, the Checklist Review Committee felt it was important to enable increased protection of these resources as appropriate.

Section 8.5: This revision changes the review from Mandatory to Concurrence. (This section was previously section 8.6.)

This narrow Checklist trigger relates to certain DCPC regulations that require a DRI referral. Although this provision is written in general terms, at the moment and as a practical matter it applies only to one DCPC.

NEW

Line 508 sec 8.6 **Proposal to correct a typo:** Change 1971 to 1974

Section 9. **Communications and Energy**

Section 9.3: The threshold for ground-mounted solar arrays has been reduced from 50,000 sq ft to 25,000 sq ft. the section has also been clarified by now saying "covering an area" of 25,000 sq ft.

This change does not reflect a bias against solar arrays. It is meant to enable review to mitigate any possible adverse visual impacts. It is also amended to specify that the 25,000 sq ft refers to the ground covered and not the square footage of the array itself.