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Martha's Vineyard Commission Land Use Planning Committee

Minutes of the Meeting of January 10, 2011

Held in the Stone Building, New York Avenue, Oak Bluffs. 5:30 p.m.

Commissioners Present: Doug Sederholm, Christina Brown; Peter Cabana, Linda Sibley; Chris Murphy; Brian Smith; and John Breckenridge.

MVC Staff Present: Mark London; Bill Veno, Bill Wilcox

There were about thirty members of the public.

1. DRI CHECKLIST

Doug Sederholm opened the meeting. He said that the purpose is to work on the biennial review of the DRI Checklist. The Commission is mandated under its enabling legislation to have standards and criteria to determine when projects should be referred to the MVC as Developments of Regional Impact. The Checklist is reviewed every two years. The MVC's Land Use Planning Committee (LUPC) is spearheading the 2011 review.

The purpose of the review of the Checklist is to:

- Ensure that the Checklist results in MVC review of projects of regional impact.
- Reflect community concerns and goals identified in the Island Plan.
- Deal with concerns about the relevance and clarity of items now on the DRI Checklist, and the absence of items that should be added to the Checklist.

General Comments

- James Pritchard said that there is a tension that comes from the fragmentation of the six towns plus the weird animal of the MVC. Should we ask town planning boards to provide input into the Checklist?
- Linda Sibley noted that the letter of invitation went to all permit granting boards. We could send the questionnaire to these boards.
- Gail Barmakian (Oak Bluffs Selectmen speaking personally) said that in general, the DRI Checklist works fine. There can be fine tuning. Her family's residential subdivision was referred and she was apprehensive. But it was a very enjoyable experience that made a lot of sense. Everybody was accommodating; people seemed to be reasonable, and it worked
- Kerry Scott (former Oak Bluffs Selectman) said that on several occasions, the MVC saved the Town because it has powers that local boards don't have. Summer residents understand that the MVC gives them status; they often feel they are not listened to at town boards. She is concerned about all towns, so if a project in Edgartown is being reviewed by the MVC, she can provide input whereas she doesn't have standing at the town level.
- Jim Athearn said that the DRI Checklist items are not to prohibit these projects, but they are to ensure that they are well planned. When he did his project, he too was apprehensive, but it turned out to be a better plan.

- Jim Athearn noted that the MVC reviews individual projects that might have a relatively modest impact, while hundreds of houses are built that have far more impact. However, it is not clear that this can be dealt with through the DRI process.
- Doug Sederholm could think of very few projects that were denied. They are almost all approved and improved.
- Michael Donaroma says the perception is different. In his experience, the projects come out better, as aggravating as it can be.
- Chris Murphy said that thirty years ago, the town boards were just starting, but they are now much more capable of dealing with project review. He wondered what criteria the MVC could use to kick referrals back to the towns, such as the existence of an area plan and special permit review process.
- Michael Donaroma said that there was a time when the MVC and town boards worked more closely together. Now the town boards do a lot. The MVC should be reaching out to the towns, with staff and Commissioners putting out ideas and then working with the town boards. The MVC could outline a possible bylaw and ask for their input.
- Doug Sederholm said that he and Mark will be making the rounds of planning boards to discuss wind regulations, and could bring this up.

Relation to Island Plan

- Michael Donaroma, Edgartown Selectmen, noted that the Edgartown Board of Selectmen hasn't met or discussed the DRI Checklist. With all due respect to the work done on the Island Plan, he noted that the Edgartown Board of Selectmen had not adopted the Island Plan. He has his doubts that the Island Plan reflects everyone on the Island. Not everyone should be held responsible for global warming, if it adds costs.
- Doug Sederholm said the aim is to look at concerns and goals raised in the Island Plan, not to necessarily apply it directly.
- Linda Sibley said that we may not be able to solve global warming on the Island, but we do have to protect our ponds.
- Jim Athearn had chaired the Island Plan, and said that the Plan has a section about the DRI Checklist, which outlines a good way to go. The Island Plan is the best information we have at this time as to what the community thinks is important, mostly to do with sustainability. It is a good idea to encourage healthy growth in town, and discourage growth in the country. We are lucky to have this economy and wouldn't have it without the fields, beaches, and woods.

Development in Commercial Districts

- Michael Donaroma, speaking personally, hopes that there could be loosening up on the business districts. The Commission can scare away small business owners concerned about the cost. Almost any project has 2000 sf. Edgartown has a good B2 [Upper Main Street] master plan and the planning board reviews projects there. Under the plan for the area, a building can be converted from one type of retail to another similar one without triggering the need for a special permit, though if it goes from a lamp store to a food outlet, there is an obvious change in intensity that does require review. He suggested that the MVC be creative, lessen its workload, and could always change it back.
- Doug Sederholm said that perhaps an item on the Checklist could be phrased along the lines of: if a project of a given size has no increase in traffic, is located in an area with master plan, and is subject to planning board review, it might not need Commission review.

- Peter Cabana asked Michael to make specific suggestions about the kinds of business that need review and which don't.
- Linda Sibley clarified that the MVC now only looks at new businesses on Upper Main Street if there is a new use or a change in intensity of use, it does not review switching from one retail use to a similar retail use. She noted that Edgartown is the only town that has plan and special permit review process for its commercial district, which could be the basis for different requirements in this area. She wondered, whether the presence of the Commission has led to other towns not doing a plan and special permit review, since they know the MVC is doing it.
- Jim Athearn asked about the possibility for the little guy with a small project to have a DRI lite, with a lower fee.

Very Large Houses

- Bruce Rosinoff, said that the Vineyard Conservation Society is concerned about the proliferation of large mansions and the absence of planning review. He realizes that the MVC has tried to stay away from this, but now is the time. He read a statement. "There is a need to protect the Vineyard's scenic and ecological resources against the regional threat of large structures that would impair those values. Such protection is not currently assured through existing regulations. The scale of the built environment on Martha's Vineyard – the relationship between structures and the natural landscape – serves as an important defining component of Vineyard character. The visual assets of the Vineyard shoreline and hilltops are especially vulnerable to problems associated with development of inappropriate scale. Therefore, VCS recommends some level of DRI review for any private development proposing to create a residence of more than 4,000 square feet, or a "built-environment" footprint (including main residence, guest house, accessory structures and improvements) of more than 7,500 square feet of space. Our rationale is that such development should be presumed to have impacts that are of regional concern in one or more of the following areas: topographic alterations to the land, habitat fragmentation, nitrogen generation, water use, energy use, visual intrusion, light pollution, waste production, open space encroachment, and scale in context."
- Linda Sibley suggested that VCS fill out the *Questionnaire about Possible Modifications to the DRI Checklist* about some recent houses that have been built.
- Michael Donaroma is concerned that this is not in Chapter 831 and asked whether it is legal to regulate houses. We don't want to get into social engineering.
- Doug Sederholm asked what the regional impact would be. Is it the visual impact because of its location? Is it the nitrogen impact on ponds? As he recalled, the MVC has recently only had two residential projects referred.
- James Pritchard said that Vinalhaven has restricted this. He thinks this is best done through town boards, so people can vote on it. What should the role of the MVC be on this? He suggested that there could be quantifiable thresholds, such as for energy or nitrogen, and if a project met those limits, it would be okay.
- John Breckenridge noted that, from an economic point of view, these houses generate jobs.
- Linda Sibley suggested we acquaint ourselves about how Aquinnah deals with this, under the town-wide DCPC.
- Megan Ottens-Sargent said that in Aquinnah, any house larger than 2000 s.f. triggers a public review. Despite this review, two prominent houses were recently built. She noted that often with a trophy house, the use ends up being insubstantial since it is only used for a few weeks a year. Since the purpose of the MVC is to deal with regional impact, we could use the Island Plan's identification

of key views and habitat and only look at proposed large houses in critical areas, such as Sengekontacket Pond or West Chop.

- Doug Sederholm believes that the MVC has the authority to review large houses, if there are regional impacts.
- Michael Donaroma suggested that the MVC could discuss this with planning boards, so towns could deal with this rather than the MVC.
- James Pritchard suggested using moral suasion. We should identify two or three good examples of projects that fit the Vineyard, and give them publicity. We could set up voluntary architectural review committee to offer assistance to property owners, even for projects that don't come to MVC. Sometimes, property owners hire architects from, say, New York that don't understand the Vineyard. This could make them aware of how to site their house on the property, and what exterior materials to use.
- Kathy Newman suggested taking a project that didn't work, and showing how it could have been done better with PhotoShop.
- Linda Sibley said that it might be better not to pick on a particular house.

Setting Thresholds

- Adam Wilson said that with mandatory referrals based on specific thresholds, people try to get just under the threshold. Sometimes this has a negative effect on the viability of the project. There could be items that were concurrence for the upper end of what is now mandatory.

Archeology

- Ann Floyd is interested in the section 1.5, archeology, which requires referral for topographic disturbance in areas identified for archeological interest, which is most of the Vineyard. She is not clear how to make this work better for property owners. She had a subdivision on Chappy which was sent to the MVC because of size. Because of the archeological importance of the area, she was required to do a first study that cost \$100,000, and she now has to do data recovery that might end up costing $\frac{3}{4}$ of a million dollars. Her neighbors had similar archeological value, but didn't have to do anything, since they were not DRIs. It is private money for the public good, which is okay up to a level, but this is too much. She would like to be able to say come dig, take what you want, but why should she have to pay for all these studies. In the city, if they find something during excavation, they stop, recover the materials, and they keep going. Why can't this happen here?
- Linda Sibley pointed out that she wasn't referred because of the archeology, it was a condition.
- Ann Floyd said that someone could be referred due to archeology. She was asked to outline the background, what agencies were involved, what happened.
- Gail Barmakian asked whether the Commission can now modify this condition.
- Linda Sibley said that it is too late in this case. All the MVC had asked for was the initial inventory, but after a lot of archeological resources were found, MassHistorical is insisting on additional work.

Cluster Development

- Michael Donaroma said that with a large parcel of property with good soils, it would be desirable to have cluster zoning. Do all towns have cluster zoning? There could be an incentive for clustering, perhaps an extra lot or relaxing setbacks. This could be done even if the MVC doesn't review the proposal. The MVC could work with planning board to discuss this.
- Ann Floyd used cluster zoning. She took 3 lots that would have been 3 acres, made them 1 acre, and put 30 acres into conservation.

- Linda Sibley said that the Checklist could say that this could be a criterion. If a town has a cluster bylaw, the project might not have to come to the MVC.
- Chris Murphy has said that we have tried hard to get town boards involved in the process; it is an ongoing effort. New ideas come up. It is not static.

Specific Suggestions

- Jim Athearn asked/suggested the following.
 - We should review the definitions, possibly adding a definition for commercial restaurants, while possibly dropping the definition of food establishments as redundant.
 - Section 2.3 Division of Thirty or More Acres refers to a subdivision of 30 acres of land being exempted from review, but this could lead to development being spread out in rural areas, which is not the goal. It would be better not to exempt protected land from review so that guidance could be given to configured the land in a way that allows for continued farming.
 - Section 2.5 Division of Current, Former, or Potential Farmland applies to dividing land on prime agricultural soils. This should also apply to construction on prime ag soils in order to guide development to limit its impact on future farming.

Doug Sederholm said that we will send the materials distributed at today's meeting to planning boards and ZBAs, along with the notes of today's meeting. He asked people to fill out the questionnaire about possible modifications to the Checklist and return it to the Commission by the end of the month.

Documents referred to during the meeting

- DRI Checklist
- Review of the MVC's DRI Checklist
- Questionnaire about Possible Modifications to the DRI Checklist
- DRI Referrals 2010 – Triggers and Types

Adjourned 7:05 p.m.