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Martha's Vineyard Commission Land Use Planning Committee

Notes of the Meeting of February 7, 2011

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

Commissioners Present: Doug Sederholm (Chairman), Christina Brown; Peter Cabana, Linda Sibley; Brian Smith; and John Breckenridge.

MVC Staff Present: Mark London; Paul Foley

Members of town boards and 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 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.

Documents Referred to During the Meeting

- LUPC February 7, 2011 - Meeting Agenda
- Review of the MVC's DRI Checklist – February 2, 2011
- DRI Checklist Review 2011: Correspondence as of February 4, 2011.
- Review of the MVC's DRI Checklist: Relation to Island Plan Strategies
- Summary of DRI Actions 2006-2010
- DRI Referrals 2009 and 2010 – Triggers and Types
- Cape Cod Commission DRI Thresholds
- LUPC January 10, 2011 – Meeting Minutes

Correspondence

- Paul Foley summarized the correspondence received thus far:
 - Geraldine Brooks thinks the DRI Checklist should grow to make any house or group of structures over 3,000 sf subject to review as well as all new development near ponds.
 - Jane Varkonda, Conservation Agent in Edgartown and Tisbury, indicated that Conservation Commission's denials of projects often get appealed to DEP and rarely does DEP uphold the denial. Could we have a DRI Checklist item for when Conservation Commission Order of Conditions that are denied are overturned by DEP on appeal?
 - Jeanne Barron believes that wind turbines should definitely be included on the Checklist because property values, Island character, and views are impacted. We should put our minds and resources into solar and geothermal energy.

- o Jeanne Campbell indicated that her family hopes that the roads, ponds, shoreline and beaches will be recognizable and accessible to their grandchildren. The MVC need strong enforceable regulations.
- o Margaret Knight is very concerned with the impact of large residences on Island resources, views, and the health of our ponds.
- o Marilyn Miller wants to add her voice to the Vineyard Conservation Society's concerns as outlined in the letter from Brendan O'Neill.
- o Peter Lenkoski feels that the current process is not positive and that DRI applications should outline short term and long term benefits from the project.
- o Brendan O'Neill, Executive Director of the Vineyard Conservation Society (VCS) wrote a letter that was cited by a number of other correspondents. He noted that the consequences of creating a strong regulatory agency like the MVC and a strong regulatory DRI review process are clear: protected natural resources, safeguarded property values, and a high quality of life.
 - VCS urges 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 (main residence, guest house, accessory structures, etc.) of more than 7,500 s.f. of space.
 - VCS believes that the MVC should retain its review power over commercial development.
 - VCS recommends that any house development within 100 feet of our scenic roads trigger DRI review, unless it demonstrates generous no-cut screening.
 - VCS recommends that any new development in watersheds at their nitrogen limit should trigger DRI review, unless it can be demonstrated that it is "nitrogen neutral".

General Discussion

- There was a discussion about whether we have heard from Towns, Planning Boards, or the business community. It was noted that most of the Oak Bluffs Planning Board as well as the Building Inspector from Tisbury were in the audience. Ned Orleans wants to ensure that various boards and entities are an integral part of producing a proposal which is then submitted for public comment. Doug Sederholm suggested that we continue to remind boards that we will be meeting regularly.
- Mark Wallace, both an Applicant before the Commission and a member of the Oak Bluffs Planning Board noted that the Oak Bluffs Selectmen and Planning Board had met and would meet again to discuss the DRI Checklist.
- Mark Wallace suggested that the LUPC consider taking their discussions to the Planning Boards. Doug Sederholm said that he and Mark London are making the rounds of Planning Boards to discuss wind energy, and could bring this up. The concern was expressed that taking each topic to each town would drag the process out indefinitely. It was noted that five of the six towns were represented at the LUPC this evening. It was suggested that LUPC members and appointed MVC Commissioners should informally keep their town boards apprised of the DRI Checklist Review.
- John Bradford, long time Chairman of the Oak Bluffs Planning Board, said he came to listen.
- Mark Wallace suggested that the MVC better explain Chapter 831 (the MVC's enabling legislation) the legislation) and the reason for the Checklist. He has read Chapter 831 and he heard the letters that Paul summarized and he doesn't think the letter writers have read Chapter 831. He thinks the DRI Checklist has become an entity unto itself. He thinks that some items on the

Checklist do not fit the criteria set down in Chapter 831 to deal with issues that significantly affect more than one municipality. The word "traffic" has become a net that captures everything. He doesn't think that was the intention of Chapter 831. He cited a recent DRI review of a pizza place in Tisbury on Beach Road as one he felt was not regional.

- Mark Wallace suggested letting towns decide if a project has a regional impact. Brian Smith said that if one town has a high tolerance for traffic, the whole region could be impacted.
- Doug Sederholm commented that Chapter 831, which was written in 1974, is more accessible than most statutes. He added that each project depends upon the specifics. With respect to the pizza place, we found out that the traffic was similar to the previous use but we did not know that until we studied it. Beach Road traffic in general is a concern because it connects a large part of the Island to the Hospital. Brian Smith added that traffic is inherently a regional issue.
- Mike Wallace countered that traffic can encompass anything. He said that the Steamship simply changing their schedule would have such an effect that it would have to come before the MVC. Linda Sibley said that he has a point, but that the Steamship Authority is no longer subject to MVC DRI review after the Legislature exempted them.
- Linda Sibley continued that the DRI Checklist is a hodge-podge. The way many of these items got on here is there was a project that everybody was shocked by and the way to try and make sure that it would not happen again was to put it on the DRI Checklist. Lenny Jason could probably tell you from memory how each one of those Checklist items came to be.
- Mark Wallace said that how most things happen. He said that Chapter 831 was created to protect the Island as a whole, and that includes economically. Doug Sederholm said that we have to build a DRI Checklist that protects the Island in good economic times and bad.
- Erik Albert (Oak Bluffs Planning Board) noted that both Edgartown and Vineyard Haven have sprawling business districts unlike Oak Bluffs. Oak Bluffs commercial district is compact and therefore should be looked at differently.
- Doug Sederholm noted that Edgartown has a Master Plan for their B-2 Commercial District which does allow the MVC to look at projects in that district differently. If Oak Bluffs were to have a Master Plan for the commercial district with guidelines and special permit review, then it might make sense for lot of projects there to avoid MVC DRI Review.
- Mark London said in listening to the public comments, he thought there were two different concerns, one was what the MVC should review, the other seems to be that there are some types of development that people feel that someone should review, whether this be the town, the MVC, or both together. We should clarify what a town is legally mandated to do during its review compared to what the MVC can do through a DRI Review. Who will deal with the issues that are not being dealt with?
- Doug Sederholm pointed out that the MVC is legally able to do certain kinds of review that towns don't have the authority to do. For example, some people apparently feel that the MVC should review large houses as DRI's, which it would have more ability to do than towns do. Christina Brown noted that there is a proposed modification to the Commonwealth's Zoning Act that would allow towns to look at large houses.
- Linda Sibley said that the MVC now considers where a project is located in deciding whether or not it should concur with a referral. Could this be spelled out in a more objective way?

Analysis of Recent DRI Referrals

- Paul Foley distributed and discussed an overview of DRI's in the past couple of years, indicating the reason for referral and the ultimate disposal.
- Ned Orleans thought it was significant that only a quarter to a half of all DRI referrals are mandatory reviews.
- Mark London suggested that we look over the list and ask what conclusions we could draw. Were there any items that were reviewed but didn't need to be and if so, is this because these projects happen to have been well designed, or would there have been an objective way for excluding such projects? If the MVC had not concurred, what kind of review would these projects have been subject to at the town level?
- Mark Wallace said he thought the size factor (e.g. 2,000 s.f. of commercial) should be considered depending upon where a project is located.
- Paul Foley pointed out that the last time the MVC reviewed the DRI Checklist, which was only adopted less than one year ago, we made eleven formerly mandatory review items into concurrence review items, including "once a DRI, always a DRI" for projects that were denied or not implemented.

Cape Cod Commission Comparison

Mark London presented a PowerPoint presentation comparing the MVC DRI Checklist with the CCC list. (See appendix.)

- On Cape Cod, towns are much larger. For example Barnstable has 48,000 people many Cape towns have their own professional planning staff, whereas on the Vineyard the biggest towns are 4,000 and do not have professional planning staffs. On Cape Cod projects are much larger (e.g. Cape Cod Mall 820,000 s.f.; Mashpee Commons 280,000 s.f.)
- The CCC refers to its standards and criteria as DRI Thresholds. These are incorporated within the DRI Regulations, which are 47 pages of legal language.
- Thresholds for DRI Review at the CCC are much higher than MVC (e.g. 10,000 s.f. of commercial instead of 2,000 s.f.; 30 lots instead of 10)
- Demolition is defined as the "total or substantial destruction"
- Discretionary Referrals are in a separate section. They can be referred as a Full DRI or as a Limited DRI, for review of only one or more issues.
- The following are some CCC DRI threshold's of interest to the Vineyard.
 - Demolition or "substantial alteration" of listed historic buildings outside of historic districts. A Town commission determines if it is "substantial alteration" by jeopardizing eligibility for National Register.
 - Bridges, ramps, roads, or vehicular ways crossing or providing access to inland ponds, barrier beaches, coastal banks, dunes, tidal wetlands, or water bodies.
 - Facilities for transportation to or from the Cape (ferry, bus, trucking, air, etc.) greater than standard thresholds.
 - Cell towers over 35' high (except Concealed Antenna Monopole less than 80' designed for co-location and less than 1300 s.f. ground area) and extensions of existing towers by more than 20'.
 - Site alterations or site disturbance greater than 2 acres including clear cutting, grading, or clearing, unless part of an approved project.

- Mixed Use projects whereby commercial area is limited to the basic threshold but the overall area can be double the basic threshold.
- With a Change of Use the Chief Regulatory Officer (staff) makes the determination as to whether it has a regional impact and needs review.
- The CCC is considering a DRI Threshold for wind turbines more than 65' high unless the town adopts model regulations prepared by CCC, in which case the threshold would be raised to a height yet to be determined. This could be an interesting approach for other topics, namely a more limited threshold which would be raised if the town adopts a plan or regulations approved by the Commission that deals with the regional issues.
- The CCC has relaxed thresholds in Barnstable and Yarmouth Growth Incentive Zones (GIZ) which came about after CCC approval of GIZ plans and standards.
- The CCC has three types of modification review:
 - Minor Modification 1 is a de minimis change as required by local board which can be approved by the Executive Director.
 - Minor Modification 2 is a modification that is substantially the same but has minor changes to the plan or conditions, and which can be approved by the CCC's Regulatory Committee, their equivalent of LUPC.
 - Major Modifications require the approval of the Commission or its designee. If it is a modification that is essentially a new project, they have to start the process over.
- There are several procedural issues that are handled differently by the CCC.
 - All information must be filed 14 days before the meeting or hearing.
 - There is a special procedure for Energy-Related DRIs appealable to the EFSB, to "prepare an expansive record".
 - Applicants can apply for limiting the scope of review to specific issue areas. Their equivalent to LUPC has 21 days to analyze the project based on criteria, and make recommendation about limiting to the scope to the Commission. If the Commission agrees, the scope of the review is limited and the fee is reduced.
 - An Applicant may ask for a ruling that though their project literally qualifies as DRI, the location, character and environmental impacts prevent it from having significant impacts. It costs 50% of the normal full fee to make this request.
 - DRI's in Cape Cod have a base fee of \$10,000, plus additional charges for area, units, etc. beyond threshold (e.g. \$300 per lot or unit). There are reduced fees for a Limited DRI and possible waivers determined by Executive Committee.
- The current Cape Cod Commission DRI Regulations including their thresholds for referral of projects are on the MVC website: www.mvccommission.org. Enter "CCC DRI Regulations" in the Search box.

Relation to Island Plan:

- Staff presented a handout titled "Review of the MVC's DRI Checklist: Relation to Island Plan Strategies". This document pulled out a number of Island Plan Strategies and listed possible changes to the DRI Checklist that might help achieve these goals. The handout also included two pages from the Island Plan that specifically discussed the DRI Checklist and Implementation.
- Doug Sederholm said he thought the chart was useful. He noted that it mentions a strategy of relaxing thresholds in commercial districts while tightening the triggers that protect rural areas.

Final Thoughts:

- Ned Orleans asked Paul Foley to do a summary of commercial DRI's for the next meeting.
- Paul Foley said he would make a link on the MVC Website Calendar (on the days when the DRI Checklist is being reviewed by LUPC) to the DRI Annual Reports from the last five years.

Adjourned 7:00 p.m.

The next DRI Checklist Review LUPC meeting will be on March 7, 2011, and will deal with development in commercial areas.

REVIEW OF THE MVC'S DRI CHECKLIST

February 2, 2011

INTRODUCTION

DRI Checklist

The Martha's Vineyard Commission's DRI Checklist consists of the standards and criteria used by town boards to determine when it must or may refer a development application to the Commission for review as a Development of Regional Impact, as required by the Martha's Vineyard Commission Act (Chapter 831 – see next page).

The Checklist is reviewed every two years. The MVC's Land Use Planning Committee (LUPC) is spearheading the 2011 review.

The current DRI Checklist reflects over three decades of revisions by the Commission, many of which responding to specific projects deemed to have regional impact. The wording of the items attempts to capture an objective description of this category of project, to ensure future review of similar projects.

Purpose of the Checklist Review Process

- 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.

Contact Paul Foley, DRI Coordinator, foley@mvcommission.org

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BACKGROUND INFORMATION

Types of Referrals

- Mandatory Referral – The application *must* be referred to the Commission and the Commission must review it as a DRI.
- Mandatory Referral Requiring Concurrence – The application *must* be referred to the Commission but the Commission may or may not concur with the referral. (In the latter case, it returns the application to the town without reviewing it as a DRI.).
- Discretionary Referral – Any municipal agency in the town where the development is located, the board of selectmen of another town, or the Dukes County Commissioners may ask the Commission to review any application that it considers might have significant regional impact. The Commission may or may not concur with the referral.

Martha's Vineyard Commission Act (Chapter 831) - excerpt

"The commission shall 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 development issues significant to more than one municipality of the island of Martha's Vineyard. For the purpose of this act, such types of development shall be termed developments of regional impact.

"In adopting standards and criteria pursuant to this section, the commission shall consider, but shall not be limited by the following considerations:

- (a) the extent to which a type of development would create or alleviate environmental problems, including, but not limited to air, water and noise pollution;*
- (b) the size of the site to be developed;*
- (c) the amount of pedestrian and vehicular traffic likely to be generated;*
- (d) the number of persons likely to be residents, employees, or otherwise present;*
- (e) the extent to which a type of development is intended to serve a regional market;*
- (f) the location of a type of development near a waterway, publicly-owned land, or a municipal boundary; and*
- (g) the extent to which the development would require the provision of the following municipal or regional services: solid waste disposal, public water supplies, sewage treatment facilities, parking facilities and tourist services and public education facilities."*

QUESTIONS ABOUT THE DRI CHECKLIST

Discussion should focus on items that might:

- Be added to or removed from the Checklist,
- Have thresholds modified (e.g. square feet, number of units, etc.)
- Apply differently in different locations.

1. What types of projects could have a regional impact and therefore should be on the DRI Checklist, but currently are not? Are there specific projects that you think should have been reviewed by the MVC?
2. Can you give specific examples of projects that were reviewed by the MVC that could not have had any regional impact?
 - Can the community be sure that another project with the same objective description could not have a regional impact?
 - Was this application reviewed by a town board with the authority to condition or deny the project with respect to traffic and parking, water resources, building and landscaping design, etc.?
 - Note: For projects that it is suggested that there needn't be an MVC review, please fill out questionnaire about that project.
3. Are there items on the current Checklist that are mandatory that should be "by concurrence" or vice versa?
4. Are there areas or projects where the MVC could use performance criteria (e.g. nitrogen loading level, energy efficient design, visibility from a public place) in addition to or instead of criteria based on size or number?
5. Are there items on the DRI Checklist that are unclear?
6. Other suggestions about the Checklist or DRI process?

NEXT STEPS

Mailing List: Please give your email address so you can receive documents and meeting notices.

Written Comments: Please submit written comments addressing the questions listed above. If you are suggesting a specific example of a project that could be added to, modified, or taken off the Checklist, please use the *Questionnaire about Possible Modifications to the DRI Checklist* to supply specific information about that project. In order to organize and better evaluate these suggestions we need information that is as specific as possible and we need to know how these suggestions would affect real projects.

Upcoming Meetings: Here is a tentative list of the dates and topics of upcoming LUPC meetings about this. (The schedule might change as issues are brought up and discussed, so please check for updates on the calendar at www.mvcommission.org.) All meetings will be on Mondays at 5:30 p.m. in the MVC offices.

- **February 7 – Continued General Input from Various Sources.** Summary of community input received to date. Information about the Island Plan proposals and current Cape Cod Commission policies as relates to DRI review.
- **March 7 – Development in Commercial Districts** - Outline of options and discussion.
- **April 4 – Large Houses** – Outline of options and discussion.
- **May 2 – Other Topics** – Outline of options and discussion.
- **June 6 – Summary of Proposals/Options** – Presentation of staff report and discussion of options. Finalize recommendations for straightforward items. For less straightforward items, outline options with pros and cons. Prepare document for public review.
- **September and October – LUPC Recommendations**
- **November – Public Hearing and Decision by the Commission.**

Draft Revisions: LUPC will prepare draft revisions for consideration by the full Commission. Town boards and the public will be invited to provide input on the draft revisions at a public hearing, before they are adopted by the MVC.

USEFUL DOCUMENTS

The following documents are available on the MVC website or from the Commission:

- Martha's Vineyard Commission Act (Chapter 831),
- DRI Checklist
- The DRI Process
- Analysis of Recent Referrals of Projects to the MVC as possible DRIs,
- Questionnaire about Possible Modifications to the DRI Checklist.



Martha's Vineyard Commission

Land Use Planning Committee Meeting

Date: Friday, February 4, 2011

DRI Checklist Review 2011: Correspondence

Synopsis of Letters Received as of February 4, 2011 –

- **Geraldine Brooks** wrote to say that she thinks the DRI Checklist should grow to include: any house or group of structures over 3,000 square feet should be subject to review.: All new development near ponds should be subject to review to ensure effective nitrogen capture; and to ensure a significant vegetation buffer to maintain the rural character of island roads
- **Jane Varkonda**, Conservation Agent in Edgartown and Tisbury, wrote to say that Conservation Commission's denials of projects often get appealed to DEP and rarely does DEP uphold the denial. Could we have a DRI Checklist item for when Conservation Commission Order of Conditions that are denied are overturned by DEP on appeal?
- **Jeanne Barron** wrote to say that she believes that wind turbines should definitely be included on the checklist for rigorous review by the MVC. She adds that property values, island character and views are impacted and that we should put our minds and resources into solar and geothermal energy.
- **Jeanne Campbell** wrote to say that her family hopes that the roads, ponds, shore line and beaches will be recognizable and accessible to their grandchildren and they won't have to defend Martha's Vineyard as a 'resort of big houses for rich people' and yes we the people who love Martha's Vineyard support the MV Commission and the need for strong enforceable regulations.
- **Margaret Knight** wrote to say that she is very concerned with the impact of large residences on island resources, views, and general impact on a neighborhood as well as the whole island and that Commission needs to have a strong voice regarding these and commercial development, roadside vistas, and the health of our ponds.
- **Marilyn Miller** wrote to say that she want to add her voice to the Vineyard Conservation Society's concerns as outlined in the letter from Brendan O'Neill.
- **Peter Lenkoski** wrote to say that the current process is not positive and that DRI applications should outline short term and long term benefits from the project. He added that it would be better encourage native plants and animals.
- **Brendan O'Neill**, Executive Director of the **Vineyard Conservation Society (VCS)** wrote a letter that was cited by a number of other correspondents. He noted that the consequences of creating a strong regulatory agency like the MVC and a strong regulatory DRI review process are clear: protected natural resources, safeguarded property values, and a high quality of life. He outlined the VCS CONCERNS as follows:
 - Large Houses - VCS urges 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. We believe 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

- Commercial Development - The checklist currently provides for review of new commercial development of 2,000 square feet or more. VCS believes this is appropriate and makes sense because business districts allow more dense development, and failure to review individual development proposals could lead to cumulative problems. Our view is that the Checklist should retain this review power.
- Island Plan – Road Screening –VCS recommend that any house development within 100 feet of our scenic roads trigger DRI review, unless it demonstrate generous no-cut screening
- Island Plan – Nitrogen Neutrality – VCS recommends that any new development in watersheds at their nitrogen limit should trigger DRI review, unless it can be demonstrated that it is “nitrogen neutral”.

Martha's Vineyard Island Plan

Section 11.2 Implementation – (page 11-18)

Excerpt

MVC DRI Review

DRI Checklist: *This outlines the standards and criteria used by towns to determine which permit applications must be referred to the Commission for review. It includes threshold sizes for certain types of development that trigger town referral of a project. The MVC should revise the DRI Checklist to reflect the ideas of the Island Plan, so that proposals in clear conformity with the Plan are not reviewed by the MVC, whereas those that might be more problematic are reviewed by the Commission. The DRI Checklist could include specific mitigation measures which projects could include to offset problematic impacts, and thereby avoid MVC referral.*

The MVC's current DRI Checklist has many anomalies which lead to MVC review of relatively minor projects, while other projects with potentially greater impact are not reviewed by the Commission, and sometimes are not even reviewed by any town board. For example, under the current Checklist, a small addition at the rear of a building that had previously been a DRI must be referred by the town board to the Commission for possible review, whereas a 400-foot wind turbine in a significant vista can be erected without any Commission review. Similarly, the addition of 1,000 square feet to a store, even in a commercial area, must be reviewed by the Commission, but the construction of a 20,000-square-foot house in a traditional older neighborhood or a nine-unit apartment building in the countryside is not.

Also, for most DRI Checklist items, the same standard applies across the Island, so 2,000 square feet of new commercial space is the threshold for MVC review, whether the store is located on a quiet rural road or in the heart of a commercial district.

The Martha's Vineyard Commission should consider the following revisions to the DRI Checklist.

- *Ensure that it reviews projects of regional impact, but not require review of projects without regional impact by eliminating the need for referring smaller and less problematic projects.*
- *Allow for projects of limited regional impact to be reviewed at the town level only, where the town has adopted its own mechanism approved by MVC dealing with the critical issue, such as an area master plan, the requirement for special permits for critical projects, an energy code, or nitrogen-loading limits. This is similar to the*

current provision requiring MVC review of the major modification or demolition of a building more than 100 years old, unless it is in a historic district and will be reviewed by the Historic District Commission.

- *In requiring that potentially problematic projects have MVC review, it could spell out how applicants could avoid MVC review by mitigating their regional impacts to meet specific established standards. For example, the Checklist could require that a building in a nitrogen-sensitive watershed be reviewed unless the nitrogen is reduced or offset so it meets an acceptable standard.*
- *A few examples illustrate how this could work (with the quantities for illustrative purposes only).*
 - *The size threshold for commercial projects – presently 2,000 square feet for the whole Island – could be revised to, say, 4,000 square feet for projects in town areas designated for commercial development, provided the project conformed to an area plan which had been prepared by the town and approved by the Commission. On the other hand, the threshold could be dropped to, say, 1,000 square feet for projects outside the commercial areas designated in the Island Plan.*
 - *The threshold for a housing development – now ten lots or units for the whole Island – could be raised, say to 12, in growth areas, and dropped, say to 6, in conservation areas.*
 - *The MVC could require that any house larger than, say, 6,000 square feet be referred to the Commission for review unless it provided predetermined mitigation for anticipated impacts, such as demonstrating that its nitrogen-loading level was less than the limit established for that watershed, that its fossil fuel use was less than a given standard, that it submitted a construction management plan to the town, and that it was not in a critical watershed.*

REVIEW OF THE MVC'S DRI CHECKLIST

Relation to Island Plan Strategies

February 7, 2011

Selection of Island Plan Objectives and Strategies that Might Influence the DRI Checklist

Island Plan Strategies	Possible Changes to DRI Checklist
<p>D1-1: Limit significant new development in outlying areas</p> <p>D2-1: Use the Vineyard Land Use Guidance Map to guide decisions affecting development on the Island.</p>	<ul style="list-style-type: none"> • Reduce thresholds in Critical Resource Protection Areas, in Resource Protection Areas, and in other Rural Areas. • Raise thresholds in Main Town Centers, in Business and Opportunity Areas.
<p>D2-7: Extend and finance infrastructure in growth areas, and limit infrastructure connections in conservation areas.</p>	<ul style="list-style-type: none"> • Review projects outside growth areas that don't have infrastructure connections.
<p>D4-1: Require project review for sensitive projects.</p>	<ul style="list-style-type: none"> • Reduce thresholds in Critical Resource Protection Areas, in Resource Protection Areas, and in other Rural Areas. • Review in other sensitive areas such as roadside viewsheds.
<p>N1-2: Establish clear standards for the MVC and local regulatory boards to require partial open space protection, or other mitigation, as properties are developed.</p>	<ul style="list-style-type: none"> • Review projects in critical habitat and rural areas that don't meet open space protection thresholds.
<p>N2-1: Identify and adopt performance, standards for habitat protection and restoration.</p>	<ul style="list-style-type: none"> • Review all projects in Critical Habitat areas • Review projects in higher category Biodiversity Classification areas that don't meet minimal standards for habitat protection.
<p>N5-3: Provide continuous waterfront access in the centers of the Down-Island towns.</p>	<ul style="list-style-type: none"> • Review projects on waterfront properties in delineated centers of down-Island towns that don't include waterfront access.
<p>N6-1: Revise regulations to protection scenic roads.</p>	<ul style="list-style-type: none"> • Review all projects in critical roadside viewsheds. • Exempt properties with a no-cut buffer (except open vistas), no high or opaque fences, limited signage and lighting.

N7-2: Increase efforts to protect/increase farmland.	<ul style="list-style-type: none"> • Review development of existing farms, open fields. • Clarify requirement to refer development on prime agricultural soils.
N10-2: Limit construction in areas at greatest risk and adopt measures to limit impacts.	<ul style="list-style-type: none"> • Review projects in areas of greatest susceptibility to sea-level rise.
N10-5: Minimize shoreline armoring.	<ul style="list-style-type: none"> • Review projects not able to be dealt with by Conservation Commissions.
B2-2: Enlarge historic districts to protect all historic areas and traditional neighborhoods.	<ul style="list-style-type: none"> • Review demolition or substantial alteration in Historic Areas and Traditional Neighborhoods that are not in historic districts.
B2-5: Designate individual structures outside historic districts.	<ul style="list-style-type: none"> • Review demolition or substantial alteration of individual historic structures outside historic districts.
B3-1: Set up project review processes along Scenic Roads and Public Waters Viewsheds.	<ul style="list-style-type: none"> • Review of projects in these locations unless reviewed by town boards.
B3-2: Set up a project review process for high-impact buildings based on size or other criteria.	<ul style="list-style-type: none"> • In town areas, review buildings, including residential, significantly larger (e.g. 25% greater floor space) than their neighborhood. • In rural areas, review buildings larger than a given threshold that is not subject to a special permit from the town. • Exempt projects on large lots that ensure adequate wastewater treatment, limit energy consumption, and minimize visual impact.
B6-4: Encourage development in Opportunity Areas.	<ul style="list-style-type: none"> • Relax thresholds for projects in these areas, linked to MVC approval of town plan and/or standards that deal with regional impacts.
L3-2: Consider "formula" business impact on Island character and economy.	<ul style="list-style-type: none"> • Review proposals for off-Island corporate chain stores and restaurants, in historic town centers or in all locations.
W3-3: Set growth control regulations related to expansion of wastewater treatment.	<ul style="list-style-type: none"> • Review projects on town sewer that would be able to develop at higher densities than previously possible. Exempt growth areas.
W5-4: Set regulations limiting nitrogen from new projects in sensitive watersheds.	<ul style="list-style-type: none"> • Review projects in nitrogen-sensitive watersheds that don't meet nitrogen limits.



DRI Checklist Review



CAPE COD
COMMISSION

Cape Cod Commission DRI Thresholds

- On Cape Cod, towns are much larger (e.g. Barnstable has 48,000 people; towns have professional planning staffs)
- Projects are much larger (e.g. Cape Cod Mall 820,000 s.f.; Mashpee Commons 280,000 s.f.)

- Standards and Criteria referred to as “thresholds”
- Incorporated within DRI Regulations (47 pages, legal language)

- ### THRESHOLDS - GENERAL
- Thresholds much higher than MVC (e.g. 10,000 s.f. of commercial instead of 2,000 s.f.; 30 lots instead of 10)

- ### DEFINITIONS
- Demolition – “total or substantial destruction”

- ### DISCRETIONARY REFERRALS
- In separate section
 - Can refer as Full DRI or Limited DRI, for one or more issues

HISTORIC STRUCTURES AND SITES

- Review of demolition or “substantial alteration” of listed buildings outside of districts
- Town commission determines if it is “substantial alteration” by jeopardizing eligibility for National Register

ACCESS TO/ACROSS COASTAL

- Bridge, ramp, road, or vehicular way crossing or providing access to inland pond, barrier beach, coastal bank, dune, tidal wetland, or water body (except up to 3 homes)

TRANSPORTATION TO/FROM CAPE

- Facilities for transportation to or from Cape (ferry, bus, trucking, air, etc.) greater than standard thresholds

CELL TOWERS

- Over 35’ high except Concealed Antenna Monopole less than 80’ designed for co-location and less than 1300 s.f. ground area
- Extensions of existing towers by more than 20’

SITE ALTERATIONS

- Site alterations or site disturbance greater than 2 acres including clear cutting, grading, or clearing, unless part of an approved project

MIXED USE

- Commercial area limited to basic threshold
- Overall area can be double basic threshold

CHANGE OF USE

- Chief Regulatory Officer (staff) makes determination

WIND TURBINES

- Thresholds under consideration
- 65' high is DRI unless town adopts model regulations prepared by CCC, in which case the threshold is raised to a height to be determined

GROWTH INCENTIVE ZONES

- Relaxed thresholds in Barnstable and Yarmouth Growth Incentive Zones after CCC approval of GIZ plans and standards

MODIFICATIONS

- Minor Modification 1 – as required by local board, de minimus change – approval by Executive Director
- Minor Modification 2 – substantially the same but minor changes to plan or conditions – approval by Regulatory Committee

MODIFICATIONS

- Major Modification – approval by Commission or designee
- New Project – start over

PROCEDURAL ISSUES

- All information must be filed 14 days before the meeting or hearing
- Special procedure for Energy-Related DRIs appealable to EFSB, to “prepare an expansive record”

LIMITED REVIEW

- Applicant can apply for limiting scope to specific issue areas
- Their equivalent to LUPC has 21 days to analyze based on criteria, and make recommendation to Commission
- If Commission agrees, scope of review is limited and fee is reduced

EXEMPTIONS

- Similar to our “with concurrence”
- Applicant may ask for ruling that though project literally qualifies as DRI, the location, character and environmental impacts prevent it from having significant impacts
- Fee of 50% of normal fee

FEES

- \$10,000 base fee, plus additional charges for area, units, etc. beyond threshold (e.g. \$300 per lot or unit)
- Reduced fees for Limited DRI
- Possible waivers determined by Executive Committee

The current Cape Cod Commission DRI Regulations including their thresholds for referral of projects are on the MVC website.

- Go to www.mvcommission.org.
- Enter “CCC DRI Regulations” in the Search box and enter return.