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## Martha's Vineyard Commission Land Use Planning Committee

### Notes of the Meeting of April 4, 2011

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

Commissioners Present: Doug Sederholm, Christina Brown; Ned Orleans; Linda Sibley; John Breckenridge; Jim Joyce; Bill Bennett; Lenny Jason; Camille Rose; and Holly Stephenson.

MVC Staff Present: Mark London; Paul Foley; and Bill Venio.

Audience: Ken Barwick (Tisbury Building Inspector);

#### 1. DRI CHECKLIST

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##### **Documents referred to during the meeting**

- A Memo from Mark London about some questions to consider regarding large houses.
- Packet of letters received by the MVC regarding putting large houses on the DRI Checklist (see meeting file).

##### **General Discussion:**

- Doug Sederholm began by clarifying the MVC is not advocating putting large houses on the DRI Checklist. The MVC is reviewing the issue because it has been raised in many letters the MVC has received. Historically the MVC has generally not reviewed single family homes, with some notable exceptions. Applications for development are reviewed if they have regional impact, so the question here is if and when the construction of a home might have regional impact.
- Brendan O'Neill of the Vineyard Conservation Society said that Martha's Vineyard shares an issue with many other coastal communities, the construction of very large houses. VCS believes that, when they have regional impacts, the MVC should review them. They are concerned about the impacts from individual projects as well as the cumulative impacts on neighborhood character, water quality, and views from ponds, as well as on historical, cultural, and ecological values. This is what the Legislature had in mind when it set up the MVC. The MVC should have the authority to look at a project when it has a regional impact. It would be useful to pick a number, say a 4000 s.f. footprint, as a trigger for referral. We should assess whether projects of that size have a regional impact. VCS's intention is to start a conversation about this issue. Architects have asked if there are guidelines for the design of new buildings and said they would welcome guidelines. VCS put out possible triggers of a 4000 sf footprint or 7500 total floor area, as a talking point.
- Julianne Van Belle suggested that the MVC consider the need for affordable housing generated by the very large houses. They generate a need for people to clean, do yard work and maintain. A study out west showed that the cumulative effect of large houses is similar to a new business. They should be required to contribute to mitigation the same way as businesses. Currently nothing compels the very large houses to mitigate their impact.
- Bill Bennett said that the points in the questionnaire spell out the concerns and the detriments perceived about large houses but he doesn't see the beneficial impacts listed anywhere. He thinks

there are benefits to the construction industry from these large houses that should be considered as well.

- Leah Smith said large houses are a concern because they create impacts including visual impacts from roads and bodies of water, and they have ecological impacts with the major earth moving, as well as creating noise and ongoing traffic during construction. It is true they create jobs but they provide temporary jobs in the construction industry and then low paying service jobs for the maintenance.
- Virginia Jones of the West Tisbury Planning Board sent a letter to be included in the written record. They have heard over and over from neighbors of some of these projects because they have been so impacted by building projects down long dirt roads that last for years, sometimes over 10 years. There are big trucks from 7 a.m. to dark for the house, guest house, tennis court, outbuildings, squash barns, equipment barns, etc. The construction process, noise and traffic go on for many years. It's not just the house but the continuing saga of building a compound.
- Linda Sibley said we don't have many subdivisions anymore and asked how a single 10-bedroom house compares to five 2-bedroom houses.
- Georgiana Greenough of the Edgartown Planning Board asked how the large houses have regional impact, other than if visible from water bodies or main roads.
- Kaysea Hart of the Vineyard Conservation Society asked what if every house is 11,000 square feet and all we are left with is trophy homes, like the Hamptons. Then there is no room for ordinary people to live here. We are moving toward no middle class.
- Holly Stephenson noted that most of the impacts that have been raised— water, energy, and character – are regional with Island wide impacts.
- Doug Sederholm asked if people thought that it would be better to base a possible referral on the footprint or floor area, or on thresholds such as amount of energy use or nitrogen loading.
- Bruce Rosinoff said that if a local official had to make a judgment call, it would be difficult. Unless it is clear, such as with a threshold of a footprint of 4000 s.f. as an example, then he is not sure if the building inspectors or town boards would end up sending it. People often say the DRI process is a tough process, but the end result is a better project. People would be willing to work with the MVC to lessen the impact. They have sent examples of ostentatious projects, especially when seen from the water.
- Doug Sederholm asked if it would be better if the DRI Checklist had it as a discretionary referral.
- Nora Nevin of the Tisbury Conservation Commission suggested that we should look at the relative footprint. If you have 100 acres and build a 10,000 s.f. house, it has less impact than if you put that size house on a small lot.
- Gary Maynard said that the real class warfare would be against the young whose only prospect for making a good living on this Island is in the construction trades. We have incredible craftsmen who do good work that is special. He employs 30 people plus subcontractors building large houses, mostly largely than 4000 square feet. They don't have much impact on the design. He struggles with the size. He would be happier if they were more historic but we are not fascists dictating what other people do with their property. In West Chop and Edgartown, there are many houses larger than that, it depends on whether it fits the neighborhood or not. From the water, it is not possible to avoid seeing the really large houses. People who build these houses pay huge sums in taxes and to the Land Bank, and they donate to the Hospital and VCS and other Island charities. He is not

opposed to regulation but thinks that a threshold of 4000 square feet is very low. He would prefer that the towns regulate this through zoning. This is not the Vineyard of 30-40 years ago.

- Bea Phear, saw a documentary set in the Hamptons with an aerial view that shows the area has been totally saturated. There is a need to get in front of the curve.
- Ted Rosbeck agreed with Maynard that the 4,000 s.f. threshold would be way too low. He said we should consider all of the economic support that these houses generate. Without the large home market over the last few years, we would have seen an utter collapse of the construction industry on the Island. Go to the MV Hospital and consider that the plaques on the walls of rooms are of donors with large houses.
- Richard Toole sat on the Commission for many years, always thought that the earlier the MVC gets involved, the better it is. People should be encouraged to design these houses so it is what the community might like with a little help during the process before they spend a lot of money on architects.
- Robert Smith of West Tisbury said that in his experience there are two distinct types of clients, some who are willing to do what is wanted, and others who will not change. He employs 25 people. He doesn't consider service vehicles coming into a house a detriment; it is people earning a living doing what they need to do to live here. Construction is the driving force of the economy on the Vineyard.
- Doug Sederholm asked again what, if we choose one, the threshold/criteria should be for putting large houses on the DRI Checklist.
- Ned Orleans asked if it is large houses or large buildings we are talking about.
- Linda Sibley noted that Aquinnah reviews large houses through a town-wide DCPC. She noted that we are talking about having MVC review of large houses, not banning them. The MVC very rarely denies a project, but it works with the applicant to mitigate its impacts and make the project better. If the MVC was reviewing a large house, it would look at various issues. It would look at energy consumption – is it super insulated? if it will it be heated all winter, could it have renewable energy? It looks at water quality. An applicant might have to incorporate de-nitrification and this would be more work for the Island construction industry not less.
- Leah Smith of the WT Planning Board said they can review houses larger than 3000 s.f. Typically they suggest screening from road, non reflective glass, landscaping, shielding exterior lighting. She thinks it would be useful to have a second level review by MVC if the impacts are really big.
- Virginia Jones asked how you get an accurate criterion for review. She mentioned a situation where an applicant proposed a 16,000 s.f. house, and then came back saying it had 8,000 s.f. it depends on how it is calculated.
- Lenny Jason said he counts the interior space, but not decks or basements.
- Gary Maynard asked what the Commission wanted to do about the proliferation of large ugly yachts that pollute, have up-lighting, and high energy needs. Could the MVC review these too? Should we limit people flying in on private jets?
- Kaysea Hart mentioned a friend driving past a 21,000 s.f. house, who was in tears; it is not a laughing matter. The owner of that house later said he would have changed the design if there had been guidelines. There were some big ones in the past, but there is a limit. The notion that these wealthy people who fund our schools and hospital will leave because these giant houses would go through another level of review is ridiculous. The Vineyard is the attraction.

- Peter Rosbeck said it is a subjective opinion to say these ugly large houses are bad. There are a lot of ugly small houses that don't fit in. It is an opinion. There is no Island-wide historic committee to determine what fits in. He disagrees that those people will come anyway; some will not. The tax base benefits from the people who spend a lot of money here and don't use a lot of services. The towns already do a great job. To have the MVC do this is dangerous. He has heard from people who don't come because of the regulation. To him, there are a lot of small homes that are very displeasing. Large homes are often completed in a timely way, whereas some small homes can drag on for years. We should be cautious about opening up something that could be more dangerous.
- Holly Stephenson said there is a right to plan, regulate, and mitigate. The MVC has a duty to contemplate the quality of life. If you just say that you can't do anything, there will only be people in very large houses, and people servicing them in affordable housing.
- Lenny Jason asked why the towns haven't done it.
- Leah Smith said that WT can review but not regulate. Virginia Jones added that they can only request and in many cases the applicants comply. The Board makes reasonable requests; they do not say they can't build. They just say that there should be thoughtful planning before construction. It has worked to some degree in West Tisbury.
- Bear Fell of the Oak Bluffs Planning Board asked why the WT Planning Board did not refer projects to the Commission. Were size and location a determining factor?
- Leah Smith said that there was a very large house, 17,000 s.f. that was not highly visible and was modified. Then there was the 16,000 s.f. house that was visible.
- Ginny Jones said that size and location are the key factors in determining regional impact. Construction is underway and the builder is exercising care to mitigate impacts on neighbors.
- Camille Rose explained the Aquinnah process. They have a threshold of 2000 s.f. of footprint including decks, pump houses, beyond which the applicant seek a special permit from the planning board under the town-wide DCPC. They provide suggestions to builders about location, design, landscaping, and mitigation. The Board's decision depends on whether it is an appropriate scale for the house and site, and if the landscaping is appropriate. There are not a lot of areas to hide a large house in Aquinnah. One of the aims has been to keep properties affordable. If a \$4M house goes in next to you, it will affect your assessment. People have come in with large projects, there was discussion and compromise. People have come back afterwards and said that the final product was better. There are cases where it 4,500 square feet on the ground. Height is limited to 18' in coastal areas and 24' in inland areas.
- Jim Joyce has said that he has had a property for sale for 3 years in Aquinnah. It hasn't sold because people are afraid of the process.
- Leah Smith asked whether the Aquinnah DCPC has impacted affordability of housing to average Island people. Camille believes that this is so, but can't demonstrate cause and effect.
- Holly noted that many people like the Island the way it is, and it is reasonable to take measures to preserve this character.
- Camille Rose said it has been expensive for the Town since it doesn't get the revenue from trophy houses, but it is worth it.
- Jim Brennan of Vineyard Haven noted that many of the people in the large houses are here for only a few months, so the impact on nitrogen will be less than with year-round smaller houses. Most

people are making these houses very energy efficient; Chilmark asks for alternative energy if there is a swimming pool.

- Bruce Rosinoff noted that the large houses may not be occupied year-round, but they have large manicured lawns that put in lots of nitrogen.
- Ted Rosbeck suggested we might be better off reviewing all of the small houses which have more impact than the few large homes. He also had an issue with people calling them big ugly houses. Are we talking about size or design? The large houses are generally better designed.
- Colin White of West Tisbury says that in this room we are speaking two different languages. Who decides who will review, does the MVC decide? What is the process?
- Doug Sederholm said that Chapter 831, the MVC Act, says that the MVC determines the standards and criteria of what has a regional impact. The Checklist outlines what towns must refer for mandatory referral or it could be as a concurrence review. It could also be a discretionary referral whereby a town board chooses to send a project that doesn't trigger the Checklist and the MVC must decide whether to accept it or not. The DRI Checklist Review process is that LUPC has started looking at the issues. When there is a draft, the MVC would hold a public hearing, make revisions, and when there is a final product, the MVC would vote on it and send it to the Secretary of Energy and Environmental Affairs for approval.
- Brendan O'Neill of the VCS thanked the LUPC for the opportunity to weigh in on the subject. He suggested that maybe there is another path such as using the DCPC process as Aquinnah did or through the Planning Board as West Tisbury does.
- Mark London said that the Zoning Act restriction of regulating the internal dimensions of a house is sometimes interpreted as saying that towns cannot regulate the size at all, but towns have several tools they can use such as an advisory Site Plan Review process as in West Tisbury, or a special permit process as with the Aquinnah DCPC. Towns can also regulate density and setbacks, which provides some controls over building size depending on the size of the property and the shape of the lot.
- Christina Brown noted that we are at an early stage of the process. People have talked about the economic impact on both sides. We are listening and need your thoughtful comments.
- Ned Orleans added that the towns cannot take the responsibility for regional impact. The towns take care of what are the towns' concerns and do it well. The MVC is the only one that deals with the Island-wide, regional impact. The MVC needs to consider the regional impact, even if this means an additional layer, which it could try to make this as easy as possible.
- Doug Sederholm thanked the members of the public and the representatives of the construction industry for adding their perspective. We need to have multiple conversations before we decide whether or not we decide to review large houses. If the MVC decides to review the really big houses then we also have to consider what size, how we look at them, and other criteria yet to be determined. He added that he is intrigued to see what the towns can do.

Adjourned 7:00 p.m.