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Martha's Vineyard Commission Land Use Planning Committee

Minutes of the Meeting of March 19, 2012

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

MVC Commissioners Present: Doug Sederholm (Chair); Chris Murphy; Kathy Newman; Pete Cabana; Ned Orleans, Christina Brown; Camille Rose; and Brian Smith.

MVC Staff Present: Paul Foley; Christine Flynn

Documents referred to during the meeting

- DRI Checklist Review – Commercial Projects Possible Revisions

1. DRI Checklist Review – Commercial Projects

The purpose of MVC DRI review is to ensure respect of regional goals such as:

- Keeping commercial development in commercial areas,
- Preserving the rural character of most of the Island,
- Minimizing regional traffic impacts,
- Preserving water quality in ponds.
- Harmonizing with the area and other aesthetic issues.
- Limiting noise.

The Island Plan is a good starting point for identifying these goals.

It has been suggested that the threshold for review of commercial projects might be modified to reduce or eliminate mandatory review of some or all commercial projects in commercial areas.

Commissioners had the following comments.

- Though town planning boards are more able to deal with these issues than when the MVC was first created, it is not clear that the towns currently have the tools, procedures, or legal authority to deal effectively with them in their project review.
- Unlike the MVC, town boards do not have the professional staff to assist with this review.
- The Commission is an Island-wide entity with a responsibility to ensure that regional impacts are dealt with; it should not simply turn this responsibility over to the towns without an assurance that the regional issues will actually be dealt with. If the MVC simply raises, or eliminates, the threshold for referral of commercial projects, only reviewing projects that a town board chooses to send, the MVC would have no way to grab it if for some reason the town board is not dealing adequately with a project.

It was suggested that the MVC might pull back from review of certain projects in conjunction with a demonstration by towns that they have the tools do deal with the regional impacts.

All towns have zoning that prohibits commercial development in most areas with some exceptions. We should make sure that we deal effectively with these exceptions.

Traffic impact is a regional issue that towns are not necessarily able to deal with effectively. The MVC deals with traffic issues with measures such as the following.

- Looking at site design to improve vehicular access and parking.
- Seeking off-site parking, such as for employees.
- Requiring parking if deemed appropriate, even if not required in town zoning.
- Seeking mitigation to offset unavoidable traffic impact. The MVC doesn't do what the Cape Cod Commission has done such as requiring an extra turning lane or installation of a traffic light, since we don't want these on the Vineyard. However, there have been cases where applicants have bought transit passes or offered other mitigation to offset traffic impacts.
- Limiting high traffic-generating uses in critical areas.
- Denying very high-traffic-generating uses or other problematic proposals in critical areas.

An issue we often deal with is whether a new project fits into its area. It would be useful to look at the typical commercial floor areas of buildings on various commercial streets and see how this compares to the thresholds. There could be different thresholds in different areas based on the current typical areas.

It would be interesting to know what percentage of commercial applications come to the MVC. We should ask ourselves whether there are projects that the MVC reviewed in recent years that didn't really need MVC review. If so, is it because the projects happened to be well designed or were they so minor that even a poorly designed project would not have been problematic?

Should the MVC have a weighted list, such as LEED, where the accumulation of a number of different potential impacts above a threshold would qualify as a regional impact? Or should each impact be enough to trigger MVC review on its own, such as exceeding the nitrogen load limit for the watershed?

Presently, once a project is deemed to be a DRI, the MVC reviews all aspects of the proposal. Could we limit review to just one or two aspects? Could this be an option for towns making discretionary referrals?

We could use developers desire to avoid having to come to the MVC as an incentive to meet certain standards and to design better projects.

With respect to having a building inspector make a determination as to whether or not a project should be referred as a DRI, it is easier to have a simple threshold such as square footage. Although there is some logic in using other criteria such as nitrogen loading or trip generation, these would be more complicated for a building inspector to apply. It would probably make more sense to have towns refer projects "with concurrence" and then have the Commission use various criteria in deciding whether or not to concur. It is more difficult to use qualitative factors such as design and character in deciding whether a project should be reviewed as a DRI, though these can be equally important.

We could deal with the possible change of thresholds in two ways.

- 1) Change the DRI Checklist now, raising the threshold for mandatory review of commercial projects in commercial areas (to, say, 3000 or 4000 square feet) with certain conditions. Projects between 2000 square feet and the new threshold would become "mandatory

referral with concurrence" meaning that they wouldn't automatically get full DRI review. The MVC could use as criteria for not concurring:

- The project meets the nitrogen-loading limit for the watershed,
- The project meets the MVC's energy policy,
- Along critical road areas, the project is not a high trip-generating use and does not result in more than a given number of vehicular trips,
- The project is not substantially larger than other nearby uses or buildings,
- The town has the authority and a plan for reviewing other regional issues,
- There is a requirement for a public hearing at the town level,
- There are no other compelling potential regional impacts.

In the case of the Commission not concurring with a referral, we have to make sure that we can deal adequately with enforcement, such as in the case of an applicant changing the proposal after the MVC has not concurred.

- 2) Allow the towns to petition for a change in the thresholds for commercial projects in commercial areas in their town (to, say, 3000 or 4000 square feet) on the basis of their demonstrating that they have the legal and planning tools to review these projects and to deal with all the regional issues.

Next Steps

- LUPC will continue the discussion of commercial projects on April 9.
- We will invite representatives of planning boards to participate in this discussion.
- Staff should prepare a summary matrix showing the current key regulations in various commercial areas including when special permits are needed.
- Staff should look at the typical commercial floor areas of buildings on various commercial streets.

Adjourned 7:00 p.m.