

Marked up DRI CHECKLIST May 27

STANDARDS AND CRITERIA

Standards & Criteria for the referral of projects for possible review by the Martha's Vineyard Commission as Developments of Regional Impact pursuant to the Martha's Vineyard Commission Act (Chapter 831) Section 12.

Version 13

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Version 13

PREAMBLE

As mandated by the Martha's Vineyard Commission Act (Chapter 831 as Amended, of the Acts of the 1977 Constitution of the Commonwealth of Massachusetts), these Standards and Criteria will be used to designate Developments of Regional Impact to be processed by the Commission to fulfill its mandate to "protect the health, safety and general welfare of island residents and visitors by preserving and conserving for the enjoyment of present and future generations the unique natural, historical, ecological, scientific, and cultural values of Martha's Vineyard which contribute to public enjoyment, inspiration and scientific study, by protecting these values from development and uses which would impair them, and by promoting the enhancement of sound local economies". (Martha's Vineyard Commission Act, Section 7)

Based on the mandates of the Martha's Vineyard Commission Act, the purposes of the Martha's Vineyard Commission, and the Applicant's submitted plans, the Commission will be weighing the proposal's probable benefits against the probable detriments pursuant to Sections 14 and 15 of the MVC Act.

The Administrative Standards and Criteria Checklist must be completed by a Town official for the person requesting any permit, approval, authority or permission from Town authorities for development or development permits as defined further in this Checklist. If the referring board or official is uncertain about whether or not to refer a project, contact the Executive Director for assistance. Such regional impact permit requests, plus all permit applications, plans, documents and other related materials supplied by the applicant, must be forwarded to the Martha's Vineyard Commission, via certified mail, for review and action prior to any local decision on the development request.

There are four types of DRI referral.

A. Mandatory Referral with Mandatory DRI Review: The application must be referred to the Commission and the Commission must review it as a DRI according to the procedure outlined in the Martha's Vineyard Commission Act (Chapter 831).

B. Mandatory Referral Requiring MVC Concurrence: The application must be referred to the Commission but the Commission may or may not concur with the referral based on a determination of whether the proposal is likely to have a substantial enough regional impact to require a public hearing and full MVC review. If the Commission decides that the development is not likely to have a substantial regional impact, the Commission will remand the referral back to the Town. These items are identified in the Checklist with the inclusion of the words "with MVC concurrence".

Note: All referrals except for sections 1.1 and 1.2 of the DRI Checklist are either Mandatory Referrals Requiring Mandatory MVC Review or Mandatory Referrals Requiring MVC Concurrence.

C. Modifications to a Previously Approved DRI: Any development or substantial change to a previously approved DRI, such as to the plan or conditions, -- whether or not it requires a development permit from the town – must be referred to the Commission and is treated as a Mandatory Referral Requiring MVC Concurrence. (Section 1.2 of the DRI Checklist)

D. Discretionary Referral: (also called an In-Town, Out-of-Town or Island-Wide Referral) Even if a proposal does not trigger any of the thresholds in the DRI Checklist, 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 project that it considers may have

significant regional impact with respect to water resources, transportation, open space, habitat, visual, cultural, community, construction process, or any other factors. The Commission may or may not concur with the referral. (See Section 1.1 of the DRI Checklist. See also Attachment B for a list of questions that can help a referring authority to determine whether a proposal might have a regional impact.). This procedure is set forth in Section 14(e) of the Martha's Vineyard Commission Act (Chapter 831, as Amended).

Type B and C referrals allow the MVC discretion as to whether they require a full Public Hearing or not, by subjecting them to a Concurrence Vote. For a Discretionary Referral, the Commission will hold a Public Hearing whose sole purpose is to consider whether or not the project is a DRI. If the MVC does concur with the referral, the application is processed by the Commission. If the MVC does not concur with the referral because it does not believe that the project would have significant regional impact, the application is sent back to the town to continue the permitting process.

After review, public hearing, consideration, deliberation on the benefits and detriments, and decision, the Martha's Vineyard Commission will indicate, by Written Decision, to local authorities that:

1. *The Commission has approved the application, or*
2. *The Commission has approved the application with conditions, or*
3. *The Commission has denied the application.*

If the Commission has approved the application the local authorities may continue the local permitting process, including approvals with no additional conditions, approvals with additional conditions or denial of the application.

The following related documents are also available from the Commission Offices or on the website (www.mvcommission.org):

- *The Martha's Vineyard Commission Act,*
- *The DRI Process,*
- Making a DRI Application.*

In interpreting the following Checklist, the most restrictive threshold applies. For example, if one threshold for a project requires a mandatory DRI review, this trumps another threshold that requires MVC concurrence.

Please refer to the definitions in Appendix A. Defined terms are capitalized and italicized.

DEVELOPMENTS PRESUMED TO BE, OR POTENTIALLY, DEVELOPMENTS OF REGIONAL IMPACT

1. Discretionary Referrals and Modifications to DRIs

- 1.1 Discretionary Referrals:** Any development -- which does not otherwise qualify under the Standards and Criteria but is one which the Martha's Vineyard Commission has been requested to designate as a Development of Regional Impact by:
- A municipal agency in the Town in which the development is proposed (In-Town Referrals); or
 - The Board of Selectmen in any other town on Martha's Vineyard (Between-Town Referrals); or
 - The Dukes County Commissioners (Island-Wide Referrals);
- with MVC concurrence.
- (Note: Attachment B outlines factors that indicate potential regional impacts meriting a discretionary referral to the MVC.)
- 1.2 Modifications to Previous DRIs:** Any development or substantial change -- which is on a lot which has been, in part or in whole, the subject of a previously approved DRI application -- with MVC concurrence
- This does not apply to:
- Properties for which a previous DRI Application has been denied, or withdrawn, or for which a previous DRI Approval has expired without implementation, and
 - Subsequent development within a subdivision of land approved by the MVC as a DRI that is in conformance with the MVC decision, unless the development triggers a DRI Checklist item in its own right or the DRI decision approving the subdivision calls for further MVC review and approval.

2. Division of Land

Note: This includes Form A - Approval Not Required (A.N.R.) divisions of land.

- 2.1 Division in a Business, Commercial, or Industrial Zone:** Any development which proposes to divide land which is located in a business, commercial or industrial zoning district -- with MVC concurrence.
- 2.2 Division Resulting in Six or More Lots:** Any development which proposes to divide land in *Contiguous Related Ownership* into the following number of lots or parcels (see attached map):
- in *all areas* – ten (10) or more lots or parcels,
 - in *Rural Areas* – six to nine (6 to 9) lots or parcels – with MVC concurrence.
- 2.3 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 prior 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:
- for land greater than 10 acres and no greater than 16 acres – up to two (2) lots,
 - for land greater than 16 acres and no greater than 22 acres – up to three (3) lots,
 - for land greater than 22 acres and no greater than 30 acres – up to four (4) lots,
 - for land 30 acres or more – up to five (5) lots.

- 2.4 Division of Current, Former, or Potential Farmland:** Any development that proposes to divide land in *Contiguous Related Ownership* of two (2) acres or more which is:
- Currently active farmland, or
 - Land that has actively been worked as farmland at any time since January 1, 1974; or
 - Identified as *Prime Agricultural Soils*;
- and which does not protect, in perpetuity by irrevocable covenant or deed restriction, said agricultural lands from development which would interfere with future agricultural use of the site.
- 2.5 Division of Habitat:** Any development which proposes the division or subdivision of land that includes more than two (2) acres of *Significant Habitat* -- with MVC concurrence.
- 2.6 ANRs:** Any Form A - Approval Not Required (A.N.R.) creating three or more lots or located in the Island Road DCPC or Coastal DCPC -- with MVC concurrence.

3 Development of Commercial, Business, Industrial, and Mixed Use Land and Buildings

- 3.1 Commercial, Storage, Office, Industrial Development:** Any development of commercial, active storage, and/or office, industrial land(s) or building(s), provided that one or more of the following thresholds are met:
- New construction totaling 3,0500 square feet or more of commercial, storage, office, and/or industrial floor area in one or more buildings including containers used for storage or active space; or
 - New construction totaling more than 2,0500 but less than 3,0500 square feet or more of commercial, storage, office, and/or industrial floor area in one or more buildings -- with MVC concurrence; or
 - New construction of addition(s) or auxiliary building(s) totaling 1,000 square feet or more of floor area, such square footage resulting in a total square footage of 2,0500 feet or more -- with MVC concurrence;
 - Any combination of new construction totaling 1,000 square or more of floor area, as well as new outdoor commercial space, resulting in a combined area of 23,5000 square feet or more of floor and land area -- with MVC concurrence;
 - Any development, including the expansion of an existing development, which proposes to create or accommodate four (4) or more business, office and/or industrial units; or
 - Outdoor commercial space of 6,000 square feet or more, including commercial polyhouse structures; excluding traditional farming land activities and outside plant stock -- with MVC concurrence;
 - Any *Change of Use* of part or all of the building (including conversion of basements, storage space or other exempt floor space to active floor space) such that the new use on its own would trigger any threshold in the DRI Checklist, or such that the total number of dwelling units on the property is reduced, with MVC concurrence;

- h) Any increase in *Intensity of Use* such that the total new use on its own triggers any threshold in the DRI Checklist – with MVC concurrence; or
- i) Commercial parking lots (that charge a fee to park) that are designed to accommodate ten (10) or more vehicles, or larger than 2,000 square feet, excluding parking lots which are incidental to another on-site existing permitted use;
- j) Is on a Martha's Vineyard Airport parcel outside of the Airport Business Park and contains non-airport related facilities – with MVC concurrence (Note: Development inside the Business Park is regulated by a Development Agreement between the MVC and the Airport);
- k) Any very high traffic-generating businesses, such as a *Drive-In Bank, Convenience Market, Fast Food or Take-Out Restaurant, Coffee or Donut Shop, or Service Station* ~~Consult the MVC Traffic Planner to help clarify definitions in this category~~ – with MVC concurrence.

Note: Development inside the Airport Business Park is regulated by a Development Agreement between the MVC and the Airport

3.2 Mixed Use Development

- a) New construction totaling 3,0500 square feet or more of mixed-use (commercial and residential) floor area in one or more buildings -- with MVC concurrence. (See also Section 4.2) In a mixed-use development, up to two dwelling units shall be excluded from the floor area calculation provided the residential space is permanently restricted to remain as residential and excludes short-term rentals of less than two months.; (see also section 3.3) or
- b. Any development, including the expansion of an existing development, which proposes to create or accommodate four (4) or more units which mix residential with business, office or industrial uses. In a mixed-use development, up to two three dwelling units shall be excluded from the floor area calculation for non-residential use provided up to 2000sf provided the residential space is permanently restricted to remain as residential and rentals terms are of not less than six months.

Note: Under sections 4.1 and 4.2, "accommodate" refers to a project becoming a DRI, either by building a project larger than the threshold (e.g. a 12-room hotel) or by expanding an existing development beyond the threshold (e.g. adding 4 rooms to an 8-room hotel). However, it does not apply to a property that is already a DRI (e.g. adding 5 rooms to a 20-room hotel previously approved DRI). Note that, in the latter case, the project would be referred to the Commission under section 1.2. See also section 3.1b.

3.3 Commercial, Storage, Office, Industrial Developments in Commercial and Industrial Districts with MVC-Approved Development Plans: The thresholds in 3.1a, 3.1b and 3.1f are raised from 203,500 s.f. to 40500 s.f. and those in 3.1c and 3.1f from 1,0500 s.f. to 42,500 s.f. for projects that:

- a) are located in B1 or B2 districts in Edgartown, Oak Bluffs, and Vineyard Haven where the town has adopted an Area Development Plan approved by the MVC and has committed to

- require conformance with this plan and these standards; and
- b) are subject to obtaining a Special Permit from a Town Board and the MVC has certified that the Town's special permit provisions give the administering body the legal authority to make binding decisions on traffic, parking, site design and landscape, building design, scenic values energy, protection of historic and archeological resources, affordable housing, water quality, and other issues of regional impact – including the possible imposition of conditions or denial of the project; and
 - c) do not trigger any other item in the DRI Checklist.

3.4 Other Commercial and Industrial Facilities: Any development for a new or proposed expansion of:

- a) A vehicular refueling; repair station; junkyard; or recharging station for four or more vehicles; or
- b) A facility for the retail or wholesale commercial storage of fuel and/or hazardous materials; or
- c) Any commercial activity which proposes to provide drive-through window service; or
- d) A public restaurant in a duly established B-1 Zoning District which is designed or proposes to accommodate expand to fifty (50) or more seats, as permitted by the Town Board of Health -- with MVC concurrence; (note: the exemption for restaurants with fewer than 50 seats also applies to changes of use and increases in intensity of use; see section 3.1h and i) or
- e) Any public restaurant or food establishment outside of a B-1 Zoning District -- with MVC concurrence; or
- f) ~~Any commercial activity or development outside the B-1 Zoning District which would require relief from Town parking regulations -- with MVC concurrence; or~~
- g) Any *formula retail* – with MVC concurrence.
- h) Any container, vehicle, or trailer used for storage that:
 - i. Is visible from a public way located within the legally required front setback of a property facing a street; and
 - ii. Is located nearer a public street than the primary building; or
 - iii. Remains in place for more than thirtyninty (930) days other than temporary on-site storage during constructionwith MVC concurrence

3.5 Demolition in a Commercial District: Any development in a commercial district that proposes the demolition of an existing structure or structures that has/have an existing total cumulative floor area of 2,000 square feet or more, with the exception of those buildings that have been condemned by the town's building inspector as unsafe – with MVC concurrence.

4 Residential Developments and Changes from Residential

4.1 Multiple Residential Units: Any development, including the expansion of an existing development, which proposes to create or expand to accommodate:

- a) ten (10) or more dwelling units including guest houses; or
- b) ten (10) or more rooms for lease or rent.

4.2 Mixed-Use Development: Any development, including the expansion of an existing development, which proposes to create or accommodate four (4) or more units which mix residential with business, office or industrial uses. In a mixed-use development, up to two dwelling units shall be excluded from the floor area calculation for non-residential use provided the residential space is permanently restricted to remain as residential and excludes short-term rentals of less than two months

Note: Under sections 4.1 and 4.2, "accommodate" refers to a project becoming a DRI, either by building a project larger than the threshold (e.g. a 12-room hotel) or by expanding an existing development beyond the threshold (e.g. adding 4 rooms to an 8-room hotel). However, it does not apply to a property that is already a DRI (e.g. adding 5 rooms to a 20-room hotel previously approved DRI). Note that, in the latter case, the project would be referred to the Commission under section 1.2. See also section 3.1b.

5 Developments in or Adjacent to Harbors, Great Ponds, Ponds or Oceans

5.1 Development in or adjacent to the Water: Any proposed development - such as new mooring basins, fill, construction of piers, armoring of coast, or dredging - that is within or adjacent to proposed within the following waters of Martha's Vineyard seaward or is within 25 feet landward of the mean high water mark of:

- a) Edgartown, Vineyard Haven, Menemsha or Oak Bluffs harbors or the West Basin in Aquinnah; or
- b) A body of water of ten (10) acres or more; or
- c) The ocean .

Exemptions from item 5.1 are:

- 1) Private piers serving only the residents of the property on which it is located that are not located on a state or federally designated barrier beach ;and
- 2) Municipal dredging projects located entirely within a single Town and conducted in accordance with a dredging management plan that has been duly adopted by the relevant Town agency.

5.2 Changes to Commercial Piers: Any development which entails a change in use or intensity of use of a commercial pier - with MVC concurrence.

5.3 Commercial Development Related to Piers: Any commercial development located on the landward portion of the property on which a pier is located that proposes:

- a) The creation of new commercial facilities related to the use of a pier; or
- b) The expansion of existing commercial facilities related to the use of a pier; or
- c) A change of use or a change in the intensity of use related to the use of a pier.
- with MVC concurrence.

6 Institutional Developments and Places of Assembly

- 6.1 Private Facilities:** Any private development which proposes the creation or expansion of a social, health, recreational, religious, educational, place of assembly, or other institutional facility:
- with a total floor area of 2,000-3,500 square feet or more, or
 - with the capacity to accommodate more than fifty (50) individuals (as defined by the State Building Code).
- 6.2 Public Facilities:** Any governmental or other publicly owned or quasi-publicly owned facility that is designed to serve the residents of more than one town:
- with a total floor area of 2,000-3,500 square feet or more, or
- with the capacity to accommodate more than fifty (50) individuals (as defined by the State Building Code).
- 6.3 County and Town Acquisition Priorities, Plans, or Programs:** Any development located on lands that are listed in the acquisition priorities or long-term goals of the County or of any Town's plans and programs – with MVC concurrence.

7 Transportation Facilities

- 7.1 New or Expanded Transportation Facilities:** Any development which proposes new construction or the expansion of existing facilities which:
- a) Will provide for transportation to or from the Island of Martha's Vineyard; or
 - b) Will be or currently exists as part of an internal regional transportation system for the Island – with MVC concurrence.
- For the purposes of this item, the term "development" shall refer to facilities for commercial and public transportation by air, land and water, and shall include, but not be limited to: runways; terminals; staging area; ticket offices; docks; the construction, widening or reconfiguration of arterial or collector roads; parking facilities; bicycle paths, and bridges. Note: For private docks, see section 5.2.

8 Developments Affecting Natural or Cultural Resources

- 8.1 Demolition or Exterior Alteration of Historic Structures:** The *demolition* or exterior alteration of any structure that:
- i) has been identified as having historic significance by a local historic commission or architectural commission, by a general plan of the Town, by the Massachusetts Historical Commission, or is listed with the National or Massachusetts Registers of Historic Places; or
 - ii) is more than a hundred years old – with MVC concurrence.

This excludes structures located within:

- established historic districts and are already protected by local historical or architectural commission review that has the legal authority to condition and permanently deny an application or
- the Martha's Vineyard Camp Meeting Association's Wesleyan Grove National Historic Landmark District.

Please see definition of Demolition

- 8.2** **Archeology:** Any development or excavation which proposes the division or subdivision of land or the clearing or topographical alteration of land that is identified by any state or federal or local agency as being of archaeological significance -- with MVC concurrence.
- 8.3** **Significant Habitat:** Any development which proposes site alterations or clearance of more than two (2) acres of *Significant Habitat* – including topographical alteration or clearing --- with MVC concurrence.
Note: See also threshold 2.5, Division or Subdivision of Significant Habitat.
- 8.4** **Coastal DCPC:** Any development within the Coastal District of Critical Planning Concern that:
- results in a new or the expansion of an existing road, bridge, ramp, or driveway which provides direct public vehicular access to or crosses coast, a great pond or other water body, a coastal bank, a dune, a tidal wetland, or to a beach; or
 - results in a hard-surfaced road, parking lot or walkway with an impervious surface, as defined by local Town bylaws; or
 - results in a parking lot for more than five (5) vehicles; or
 - results in development on Nomans Land Island.
- 8.5** **Critical Open Space:** Any development located in the *Critical Open Space* as identified in the attached Map defined in the Island Plan – see adopted Map - with MVC concurrence.
- 8.6** **Current, Former, or Potential Farmland:** Any site alteration, construction, or other development on two (2) acres or more of land *in Contiguous Related Ownership* – other than those directly related to agricultural food production – which is:
- Currently active farmland, or
 - Land that has actively been worked as farmland at any time since January 1, 1974; or
 - Identified as *Prime Agricultural Soils in Map* ---;
- with MVC concurrence.
Note: See also threshold 2.4, division or subdivision of farmland.
- 8.7** **DCPC:** Within any District of Critical Planning Concern, any development which the Martha's Vineyard Commission has specifically classified as being of regional impact within the Town Regulations Guidelines-approved for that DCPC.

9 Communications and Energy Facilities

- 9.1** **Telecommunications:**
- Any development that proposes the construction or erection of any personal telecommunications tower as set forth in the Federal Telecommunications Act of 1996 and which would exceed thirty-five (35) feet in height as measured from the natural grade of the site upon which the tower is to be located.
 - Any reconstruction, replacement, or reconfiguration of an existing tower on the same site,

provided that the height of the replacement or reconstruction does not exceed the height of the existing wireless telecommunications tower – with MVC concurrence.

9.2 Wind Energy Facilities: The erection, construction, installation, or modification of a wind energy facility, or of a met tower that will be in place for more than 14 months, in the following categories as defined in the Wind Energy Plan for Dukes County:

- a) Any facility whose height is more than 150 feet; or
- b) Any facility located in the Ocean Zone; or
- c) Any facility located in the Land Zone – Exclusionary Area or Area of Special Concern – with MVC concurrence; or
- d) Any facility located less than six (6) times the turbine height from a municipal boundary – with MVC concurrence; or
- e) Any facility that would be subject to review under a town bylaw where such special permit review is preempted or otherwise not allowed by virtue of an act, regulation, policy, or other law applicable to the town but not to the Martha's Vineyard Commission.

9.3 Solar Facilities: Any installation of solar panels covering an area greater than 50,000 square feet -- with MVC concurrence.

ATTACHMENT A

DEFINITIONS

The following definitions shall be used in conjunction with the DRI Checklist. The inclusion in the list of definitions does not necessarily mean that such projects must be referred to the MVC. Please refer to the relevant section of the Checklist itself to determine whether or not an application should be referred.

Area Development Plan: A plan approved by the MVC including project requirements and criteria for project review, with respect to traffic, parking, site design and landscape, building design, scenic values energy, protection of historic and archeological resources, affordable housing, water quality, and other issues of regional impact. These standards may incorporate by reference MVC policies.

Area of Use: Includes facilities associated with or land devoted to the primary use(s) of the facility, or primary development and/or facilities associated with and land areas used for accessory uses customary and incidental to the primary use.

Arterial and Collector Roads: Roads designated by the Massachusetts Department of Transportation as "arterial" and "collector" roads.

Auxiliary Building: A building giving support, helping, aiding, assisting, subsidiary, incidental or additional to an existing building.

Buildable Lot: A parcel on which a structure may be erected. This excludes portions of a lot conveyed to an abutting lot that do not increase the number of buildable lots on that property.

Change of Use Category: A change of use from one use category to another use category, such as a change from one of the following use categories to another, higher-intensity use category, with a larger number in the following list: i) storage and warehouse, ii) residential; iii) office; iv) institutional, educational and municipal; v) retail; vi) restaurant; vii) place of assembly. (Note: The term "previous use" applies to the current use or a use of

the same facility in the previous five years. A change in ownership does not necessarily mean a change in use. However, if a change in ownership entails an increase in the intensity of use (see definition below) or a change in the category of use, or if it triggers any item on this Checklist, then the project should be referred to the Commission. If the referring board or official is uncertain about whether or not to refer a change in ownership or a change in use, call the Executive Director or DRI Coordinator for assistance.)

Clearing: Cutting of trees or other removal of vegetation.

Concurrence: A vote by the Martha's Vineyard Commission that determines that a project application referred to the Commission as a Mandatory Referral with Concurrence or as a Discretionary Referral has a regional impact and will be reviewed by the Martha's Vineyard Commission as a Development of Regional Impact.

Contiguous Related Ownership: Any group of two or more parcels owned by a single entity or in related ownership whereby any parcel in the group shares, for any distance, a common boundary line with at least one other such parcel. Lots in contiguous ownership may be located wholly within one Town, may cross Town boundaries or may cross zoning district boundaries.

Critical Open Space: The area defined in the Island Plan as being of the highest importance for open space preservation because of its exceptional habitat, scenic values, or other reasons (see attached map).

Demolition: 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.

Density: Total floor area of all buildings on a parcel divided by the lot size (Floor Area Ratio or FAR).

Development:

- Any building, mining, dredging, filling, excavation or drilling operation (excluding single-user wells); or
- Any material change in the use or appearance of any structure or in the land itself; or
- The dividing of land into lots or parcels; or
- A change in the intensity of a use of land such as an increase in the number of dwelling units in a structure; or
- Alteration of a shore, beach, seacoast, river, stream, lake, pond or canal, including coastal construction; or
- Demolition of a structure; or
- The clearing of land as an adjunct of construction; or
- The deposit of refuse, solid or liquid waste, or fill on a parcel of land.

Development Permit: Any permit, license, authority, endorsement or permission required from a municipal land regulatory agency prior to the commencement of construction, improvement or alteration made to buildings or land.

Division of Land: The act of subdividing or separating a parcel of real estate into more lots or parcels including Approval Not Required (ANR) Proposals, as well as establishment of a condominium, exclusive use access, ground lease for buildings, or other arrangement that is the functional equivalent of separate lots.

Farmland: Land used for the growing of crops, pastureland, nurseries, cut-flower operations and the commercial growing and sale of trees.

Fast Food: Food intended for consumption on-site or take-out which has been totally or partially pre-prepared, normally resulting in a time lapse of less than ten minutes between the order-taking and the delivery of the food

Floor Area: The total area of a building measured by taking the outside dimensions of the building at each floor level intended for occupancy. Basement or attic space used in connection with a principal or accessory use shall be counted in the calculation of

floor area unless such space is used exclusively for Passive Storage or has a ceiling height of less than 54 inches. Note that in calculating floor area with respect to thresholds of new floor space, this definition shall apply to the gross new floor space without giving credit to pre-existing square footage that has been demolished or removed.

Formula Retail: A business including a restaurant which does or is required by contract, as a franchise or by other arrangement, to maintain two or more of the following standardized (formula) array of services and/or merchandise: i) Menu or products; ii) Trademark, logo, service mark, or symbol; iii) Interior décor; iv) Exterior architecture or façade; v) Signage; vi) Layout; vii) Uniforms; viii) Color scheme; or ix) Similar standardized features, and which are utilized by ten or more other businesses worldwide regardless of ownership or location.

Increase In Intensity Of Use: Any development (such as adding tables, fast food, or take-out to a restaurant, adding pumps to a service station, changing the nature of products or services offered, or otherwise changing the type of operation of a business), that is likely to lead to a significant increase in any one of the following: i.) Vehicular and/or pedestrian traffic; ii) Parking requirements; iii) Lot coverage percentage; iv) Hours of operation; v) Water usage, wastewater flow and/or nitrogen loading; vi) Energy use; vii) Marine traffic.

Island Plan: The Martha's Vineyard Island Plan, the regional plan of the Island adopted by the Martha's Vineyard Commission in December 2009, as may be amended from time to time.

Municipal Land Regulatory Agency: Any municipal agency, board, commission, department, office, or official that has statutory authority to approve or grant a development permit.

Nitrogen-Sensitive Watershed: The land area which drains into a nitrogen-sensitive pond as identified by the Martha's Vineyard Commission.

Open Space Policy: "MVC Policy for DRI Review: Open Space Preservation" adopted by the MVC on May 6, 2006, as may be amended from time to time.

Outdoor Commercial Space: The total outdoor area used for the display, delivery, loading, storage, processing, production, sales, leasing of material(s) and commercial parking lots, exclusive of access roads, landscaping, parking accessory to the main use, and structures (Floor Area).

Parcel: A defined piece of real estate that may or may not be a Buildable Lot.

Person: An individual, company (limited liability or otherwise), corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint interest or common interest, or any legal entity.

Place Of Assembly: As defined in 780 CMR State Building Code, a room or space accommodating fifty (50) or more individuals for religious, recreational, social, educational, political or amusement purposes, or for the consumption of food and drink, including all connected rooms or space with a common means of egress or entrance.

Prime Agricultural Soils: Class I and II agricultural soils identified by the Massachusetts Soil Conservation Service (see enclosed map).

Related Ownership: A family or economic relationship among owners of land or facilities indicating premises that are under unitary or joint control, or are being developed for shared economic benefit.

Rural Areas: Areas of relatively lower density of settlement as defined by the Island Plan (see attached map).

Significant Habitat: Land having wildlife significance for being essential to the conservation of a listed species, namely:

- Core or Priority Habitat as defined by the Massachusetts Natural Heritage and Endangered Species Program, or
- Critical, Intact Source, or Minimally Disturbed Source Habitat as defined in the Island Plan.

Storage - Active (included in floor space calculation): Any storage other than passive storage. For example, this could include commercial storage spaces for rent; storage

facilities for equipment other than in basements or attics, stock rooms, outdoor storage of equipment, storage in containers, vehicles or trailers for more than 30 days other than temporary on-site storage during construction. (This type of storage may contribute directly or indirectly to traffic, parking, septic, visual, or other impacts commonly associated with commercial use.)

Storage - Passive (exempt from floor space calculation): Any storage of supplies, equipment, materials or goods not actively used in connection with the principal or accessory use, such as out-of-season goods not currently offered to the public for sale.

Substantial Change: A change to an approved plan that would alter the characteristics (such as scale, massing, footprint, appearance, materials, impact on abutters and streetscape, occupancy, use, etc...) of a project to a degree that would require re-investigation to prove and insure compliance.

Topographic Alteration of the Land: The clearing, cutting, digging, drilling, or other activity on the land that results in a perceptible change to the landscape and/or threatens archaeological resources or natural habitat.

Town Areas: Areas of relatively higher density of settlement as defined by the Island Plan (see attached map).

Unit: A residential, commercial, industrial, or other interior space owned or rented, as a separate entity on its own.

Wind Energy Plan for Dukes County: The plan prepared by the MVC in collaboration with the seven towns of Dukes County and adopted on October 18, 2012 outlining criteria for development of wind turbines on the land or in the waters of Martha's Vineyard and the Elizabeth Islands.

ATTACHMENT B

POSSIBLE FACTORS WARRANTING DISCRETIONARY DRI REFERRAL

Even if a proposal doesn't trigger any of the thresholds in this DRI Checklist, the proposal may be referred to the MVC as a Discretionary Referral if it is believed that the proposal is likely to have a regional impact with respect to issues such as: water resources, transportation, open space, habitat, visual, cultural, community, construction process, or any other factors that might have a regional impact. It may be referred by any municipal permit-granting agency in the town where the development is located, by the board of selectmen of another town, or by the Dukes County (Section 1.1 of the DRI Checklist).

The following questions may be used by local boards and agents in helping to determine whether a development proposal might warrant referral as a Discretionary DRI Referral. They should not be construed as a "required" checklist, nor as an exhaustive list of factors that might warrant a referral of a development proposal. This refers to all types of development including division of land, construction, changes of use, or increases in intensity of use.

Water Resources

- a) Will there be a serious increase in nitrogen loading (or other contaminants) from the proposed project, especially within a nitrogen-sensitive watershed? Will the nitrogen loading exceed the acceptable loading limit for the watershed as determined by the MVC?
- b) Will the project cause or increase any stormwater discharges into wetlands or water bodies?
- c) Will the project interfere with any existing public access to the shoreline?
- d) Will the project displace any water-dependent use?
- e) Will the project enlarge or intensify a use in a FEMA flood zone or have any adverse impact on a barrier beach or coastal dune?
- f) Will the project create any disturbance or alteration of a wetland or vernal pool or their buffer zones?
- g) If the project is located in an area that is sewered after January 1, 2012, will the project have a significantly higher density than would have been allowed under Title 5?

Transportation

- h) Will the project generate more traffic or require more parking facilities than the previous use? Is the proposal a High Traffic-Generating Use, namely a daycare, discount store, movie theater, post office, sit-down restaurant, supermarket, or any other use that generates between 75 and 149 trips per day per 1000 square feet (based on the rates issued by the Martha's Vineyard Commission or, if unavailable, by the Institute of Transportation Engineers).
- i) Is the project located on or close to roads or intersections which have been identified in the Martha's Vineyard Regional Transportation Plan as having significant traffic problems? These include, but are not limited to:
 - Edgartown: Upper Main Street, Main Street and intersecting streets, the Triangle;
 - Oak Bluffs: Beach Road, Circuit Avenue, SSA ferry area;

- Tisbury: Upper State Road, Beach Road, Beach Street, Main Street and intersecting streets, Water Street and SSA ferry area, Five Corners.
- k) Is it anticipated that the total expected number of additional trips from the proposal (based on the rates issued by the MVC or, if unavailable, by the ITE) on a road or intersection increase by more than 10% or 200 trips per day, whichever is less, especially if the road or intersection has been identified as having significant traffic problems?
- l) Will the project create any traffic safety problems?

The MVC Traffic Planner should be consulted to help perform these calculations.

Open Space and Habitat

- m) Will the project disturb the habitat of any rare or endangered plant or wildlife?
- n) Will the project reduce the amount of open space on the site to below 65 percent in Primary or Core Habitat areas, or 40 percent in other areas?
- o) Will the project disturb or disrupt open space on or abutting the site?

Sustainability

- p) Will the project discharge noise, odors or other noxious emissions?
- q) Will the project use a significant amount of non-renewable energy?
- r) Will there be a serious increase in the use, storage, treatment, disposal or generation of hazardous materials or wastes?

Visual, Cultural, and Community

- s) Does the project have a density – total floor space divided by lot size (FAR) – significantly (e.g. 50%) greater than the average for its surrounding neighborhood such that it would impact the neighborhood character?
- t) Will the project appear from a public way to be significantly larger than other buildings or structures in the area or will it have clearly visible and significantly different building form (massing, roof shape), materials, or other features from those in the surrounding area (taking into consideration the building location and design as well as the site topography and landscape design)?
- u) Will the project obstruct significant viewsheds or otherwise have a significant visual impact from a public way (such as a major Island road or downtown street, a public body of water, or another public open space)?
- v) Will the project obstruct historic or ancient ways?
- w) Will the project have a negative impact on cultural or historical resources or on neighborhood character including areas identified as Historic or Traditional Neighborhoods in the Island Plan?

Construction Process

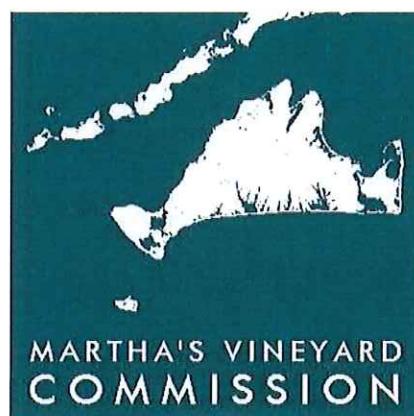
- x) Is the project likely to generate significant construction-related impacts, such as the addition or removal of significant quantities of soil and/or being located where there is limited access such as a narrow public or private road?

Other

- y) Is the project not subject to a town special permit or other review process – including a public hearing – that would provide for adequate review of significant impacts?
- z) Are there any other factors peculiar to this project that might have a regional impact?

The staff of the Martha's Vineyard Commission is available to help clarify the above factors with respect to specific projects and sites.

For assistance with any aspect of the DRI Process, please contact the MVC's DRI Coordinator at 508-693-3453 extension 18.



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