

Development Permitting Processes on Martha's Vineyard



Martha's Vineyard Commission
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1. Introduction

Although towns and the Martha's Vineyard Commission have made many improvements to the process of reviewing development applications on Martha's Vineyard in recent years, it is often suggested that further improvements would be useful. Additional changes could potentially:

- Make the process more efficient by limiting duplication and confusion;
- Reduce staff time and costs;
- Improve the working situation for permit-granting authorities and their staff, as well as for those town employees and departments that play a supporting role in permitting;
- Make the process more understandable for applicants, the public, and other stakeholders;
- Expedite decision-making; and
- Enable better permitting decisions.

This report looks at current permitting practices on Martha's Vineyard with a view to identifying possible improvements, which might be considered by towns and/or the MVC. The report was prepared by the Martha's Vineyard Commission (MVC) under a contract with the Commonwealth's Department of Housing and Community Development (DHCD) pursuant to the Massachusetts Expedited Permitting Law (M.G.L. Chapter 43D, as amended by Chapter 205 of the Acts of 2006). Other related work being completed by the MVC under this contract includes compiling a database of previous Developments of Regional Impact and analyzing existing Island zoning regulations, especially in relation to housing affordability and sustainable development.

2. Background and Methodology

In the Commonwealth, there have been efforts going back decades to help towns improve their permitting processes (see Appendix A) including the recent 2006 amendment of the Massachusetts Expedited Permitting Law. Over the past year, the Massachusetts Association of Regional Planning Agencies (MARPA) worked with its member agencies, including the MVC, on a *Best Practice Model for Streamlined Local Permitting* (see Appendix C, available from the Commission or at www.mass.gov/mpro). It identified 26 "best practices" that could contribute to an effective permitting process. In addition to describing each of the best practices in considerable detail, it includes links to relevant by-laws and other useful documents. Even though several of the possible Best Practices identified in the MARPA report are of limited applicability on the Vineyard, we felt it would be useful to pattern this Vineyard study on the MARPA report's comprehensive review of techniques.

Since March 2007, the MVC has conducted a program of outreach to public and private stakeholders in the local permitting processes on Martha's Vineyard in order to gather

information about these processes. This includes town employees, board and committee members, private interests involved in local permitting (e.g., developers, builders, architects, engineers, land use attorneys, etc.), and representatives of non-profit land conservation groups. This outreach consisted primarily of one-on-one interviews, supplemented by telephone discussions, e-mails, and/or written correspondence. This report is essentially a summary of the results of this investigation, documenting the existing situation and people's evaluation of current and possible future practices. In addition to the outreach conducted by the MVC, this report benefits from the extensive research and reporting done by the MARPA member agencies.

Each development proposal on Martha's Vineyard is processed by the administration of the town in which it is located. In addition, proposals classified as Developments of Regional Impact (DRIs) are reviewed by the MVC.

The following terms will be used in this report:

- Permit-Granting Authority (PGA) – the individual and/or board(s) responsible for reviewing and approving applications before a permit may be issued; depending on the type of development proposed, this may include the local Building Inspector, Board of Health, Zoning Board of Appeals, Conservation Commission, Planning Board, Historic District Commission, Site Review Committee, etc.;
- Applicants – a property owner or developer, as well as their designees, representatives and consultants; and
- Stakeholders – applicants, abutters, public at large, PGA members, and PGA staff.

3. Organization of this Report

This document, which should be read in conjunction with the MARPA guide, examines both town and MVC permitting processes, looking at four key areas:

- Improving communication within and about local permitting processes and procedures;
- Standardization of processes and procedures across town regulatory functions;
- Marshalling town resources to improve permitting performance; and
- The role of strategic planning in support of effective permitting.

Appendix B sequentially reviews each of the 26 best practices identified in the MARPA guide and presents each possible technique in the same format:

- A general description of the technique;
- A description of the current use of the technique on Martha's Vineyard;
- A summary of the stakeholder responses from the MVC outreach effort; and
- A discussion of the applicability of the technique on Martha's Vineyard.

Section 4 of the main report gives an overview the current use of techniques on the Vineyard, section 5 gives a brief summary of stakeholder comments, and section 6 lists

what appear to be the most promising techniques for possible implementation on the Island.

This document is a work in progress. The MVC will endeavor to update it periodically as changes are made and as the techniques discussed herein, or others, are put to into practice here on Martha's Vineyard and throughout Massachusetts.

4. Overview of Permitting on Martha's Vineyard

Table 1 lists MARPA's 26 best practices and indicates which are currently being used in each of the six Vineyard towns or by the MVC. All techniques in the MARPA guide are included, recognizing that some are clearly more suitable to larger municipalities and may have limited applicability on Martha's Vineyard. Permeating the analysis of present and potential techniques is the fact that the Island towns and the MVC are relatively small entities, often with limited staff and resources devoted to the permitting process.

Table 1: Existing Permitting Processes – Access to Regulatory Information

	Aquinnah	Chilmark	Edgar-town	Oak Bluffs	Tisbury	West Tisbury	MVC
1. Single Point of Contact							
2. Local Permitting Guide							
3. Permitting Flowchart and/or Checklist							
4. Clear Submittal Requirements							
5. Concurrent Applications and Permitting Timetables							
6. Combined Public Hearings							
7. Pre-Application Process							
8. Project Technical Review Team							
9. Inter-Departmental Meetings							
10. Physical Proximity of PGA Staff							
11. Development Agreements							
12. Use of Third-Party Consultants							
13. Exactions and Impact Fees							
14. Objective Criteria, Of-Right Zoning, and Master Plans							
15. Use of Site Plan Review							
16. Two-Tier Assessment Process							
17. Delegation of Authority to Staff							
18. Standardization of Review Processes							
19. Adequate Staffing Levels							
20. Culture of Training							
21. Town Website Improvements							
22. Electronic Permit Tracking Software							
23. On-Line Application Filing							
24. Site Selection Guide							
25. Priority Development Site Designation							
26. Pre-Permitting of Selected Sites							
		<i>Full and formal implementation</i>				<i>Partial implementation</i>	

5. Stakeholder Comments

Table 2: Stakeholders Interviewed for this Report

<ul style="list-style-type: none"> • Edgartown Planning Board • Oak Bluffs Zoning Board of Appeals • West Tisbury Zoning Board of Appeals • West Tisbury Planning Board • John Abrams, Builder • Patrick Ahearn, Architect • Laura Barbera, Tisbury Zoning Board of Appeals staff • Richard Barbini, Engineer • Marcia Cini, Attorney • Simone DeSorcy, West Tisbury Planning Board staff • Georgiana Greenough, Edgartown Planning Board staff • Patricia Harris, Tisbury Planning Board staff • Chuck Hodgkinson, Chilmark Zoning Board of Appeals staff • Julie Keefe, West Tisbury Zoning Board of Appeals staff • James Lengyel, Martha’s Vineyard Land Bank Commission • Ernest Mendenhall, West Tisbury Building Inspector 	<ul style="list-style-type: none"> • Sean Murphy, Attorney • Brendan O’Neill, Vineyard Conservation Society • John Powers, West Tisbury Board of Health Agent • Norman Rankow, Contractor (former Planning Board Chair) • Ronald Rappaport, Attorney • Peter Rosbeck, Builder/Developer • Jane Varkonda, Edgartown Conservation Commission Agent • Thomas Wallace, R.E. Sales and Development • Adam Wilson, Oak Bluffs Zoning Administrator <p>The foregoing list reflects formal, scheduled interviews. There were, and continue to be, numerous other informal, unscheduled discussions with PGA members, town staff, and other stakeholders regarding town regulatory functions, generally, and local permitting process and procedure, specifically.</p>
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Most stakeholders interviewed felt that, in spite of limited resources, town staffs do an admirable job in ensuring adequate accessibility to and understanding of their respective regulatory processes. Many agree that a certain amount of informality in dispensing such information is appropriate to small-town, Island life. A few mentioned that informality adds to the perception that local permitting is easier for “insiders.” Most stakeholders felt that readily accessible information explaining the ins and outs of local government regulatory processes would go a long way toward leveling the playing field for all concerned, making it more comprehensible especially to first-time applicants and abutters who do not have the experience or resources of more sophisticated applicants.

No one enjoys going through an application review process. Applicants would, no doubt, like to have their proposals quickly approved as originally conceived, with no changes or conditions. However, they and other residents also want to ensure that their investment is protected by making sure that other building projects in their area are appropriate; namely, that they strictly respect all applicable bylaws, and that projects subject to review are thoroughly examined to ensure that concerns such as water quality,

traffic, and neighborhood scale are carefully considered and, if necessary, mitigated. Inefficiencies in local and regional permitting processes are often laid at the feet of local PGAs and their staff, though just as often the cause is applicants who are not well prepared or who are proposing projects that warrant modification, mitigation, or even denial. Stakeholders generally favored efforts to make the permitting process more efficient, without relaxing those standards that each individual community finds important.

6. Promising Best Practices for the Vineyard

To summarize, the most promising tools in the short term would appear to be the following:

- The formal designation of *Single Points of Contact* (1) would help coordinate local permitting across town departments.
- Preparation of *Local Permitting Guides* (2) – including *Permitting Flowcharts and/or Checklists* (3) and *Clear Submittal Requirements* (4) – would be a key tool in making the process clear for everyone.
- Convening regularly scheduled *Inter-Departmental Meetings* (9) would help coordinate the progress of applications through various boards, and also help implement the various other proposals discussed in this report.
- Availability of permitting guides and other supporting information could be improved with *Town Website Improvements* (21).
- Using a *Pre-Application Process* (7) more systematically would give applicants guidance before plans are finalized and the formal process starts.
- *Permit-Tracking Software* (22) could be used more broadly. The West Tisbury and Oak Bluffs Building Inspectors and PGA staff could give feedback on their systems and share their expertise with other towns.
- In the category of *Culture of Training*, the MVC could play a special role in hosting or organizing training sessions, and all Island boards could encourage their members to attend. Most useful would be opportunities to allow members of town boards to share their experiences with each other.

Promising tools that might take a somewhat longer time to implement are the following.

- Using *Concurrent Applications and Permitting Timetables* (5), and possibly *Combined Public Hearings* (6) could speed up the process by allowing parallel, rather than sequential review. This could be most useful for projects referred to the MVC.
- Creation of a *Two-Tier Assessment Process* (16), which could include *Delegation of Authority to Staff* (17), would help expedite routine cases.
- Implementation of predictable *Exaction and Impact Fees* (13) could guide development and provide a much-needed source of revenue for town coffers.
- *On-Line Application Filing* (23) would be a convenience for applicants, and could be coupled with on-line submission of comments as part of the project review

process. The MVC could try this first, and if it works out, towns might consider adopting a similar system.

- The drafting of *Objective Criteria for Special Permits and Other Approvals (14)* could start out by simply writing down the criteria already used by various boards. In the longer term, these could be fleshed out based on feedback from users and in relation to various planning efforts.

Other tools are related to planning efforts that could better articulate each community's vision for future development.

- This could lead to greater use of *Of-Right Zoning (14)*, likely in conjunction with *Site Plan Review (15)*, to help steer development toward areas where growth may be wanted. Also, the preparation or updating of town *Master Plans (14)* can help formulate *Objective Criteria (14)* for project review.
- It could also lead to *Priority Development Site Designation (25)* and *Pre-Permitting of Selected Sites (26)*, tools that could be explained in a *Site Selection Guide (24)*.
- Most importantly, increased pro-active planning efforts can identify what areas should have what kind of development and conservation, and what zoning by-law revisions and other measures can help make this happen.

7. Conclusion

It is suggested that the MVC and each town assess the value of each of the initiatives discussed above and decide which, if any, are suited to address their situation based on the likely benefits, any costs associated with implementation, and the political prospects for each such proposal.

Some proposals can be implemented with a simple internal, administrative decision, while others might require Board of Selectmen approval. Most complex would be those proposals requiring approval at Town Meeting, with a two-thirds vote for a zoning change. The latter is not an insignificant hurdle in that there is a general reluctance to making changes. Even making relatively simple administrative changes can be difficult in small towns, given the limited staff resources available.

With the leadership of the Island Boards of Selectmen, town boards, and the Martha's Vineyard Commission, combined with the professionalism, commitment, and diligence of dedicated town and MVC staff, the Island towns and Commission can make their town regulatory processes even more pro-active, transparent, efficient, and user-friendly. The Martha's Vineyard Commission remains available to provide technical assistance in this continuing effort.

A P P E N D I C E S

A. BACKGROUND TO PERMITTING IN MASSACHUSETTS

In Massachusetts, as in other states, the responsibility for land use planning and regulation was either directly granted or indirectly left to local government. Communities adopted zoning ordinances and a variety of other by-laws to protect the health, safety, and welfare of the community's inhabitants. Local land-use regulatory powers are embodied in and carried out by a number of municipal officers, boards, committees, and commissions, known collectively as permit-granting authorities (PGAs).

While legally the product of state statute, these PGAs are very much a reflection of each individual town's character, political and otherwise. Created and developed over many years, at different times and for very different purposes, the PGAs grew in number and scope of jurisdiction, often overlapping in authority and extent of review. Across Massachusetts, the result is an at-times confusing, frustrating, and time-consuming regulatory environment, often marked by a lack of coordination and information. In many communities, the local regulatory scheme also suffers from a disconnect between the municipality's regulatory and planning functions. Some municipalities don't have comprehensive land use plans or have plans too vague to provide the necessary planning basis for proper regulatory decision-making; some municipalities have plans that have little relation to their zoning regulations or have boards insufficiently familiar with the plan.

During the 1980s building boom, the regulatory shortcomings described above began to get significant attention, with criticism and proposals coming from two disparate camps: private real estate interests seeking to cut "red tape" and those opposed to continued fast-track growth. Local governments and planners, as well as organizations in the fields of the environmental protection, land conservation, and historic preservation, began to assess the effects of a system of land use regulation which many felt was largely driven by real estate interests, offered limited rights for abutters and the general public, and was largely bereft of any comprehensive planning to inform the regulatory processes. Governments and communities became increasingly aware of the impacts of poorly planned, or unplanned, development on local infrastructure, on the cost of services, on water and sewer capacity and quality, on transportation, on schools, on historic character, and on the overall quality of life in their municipality. Significant efforts were undertaken to assess the local regulatory processes and the underlying planning as a first step toward creating more transparent, inclusive processes. However, as the real estate market waned, so did the collective interest in assessing and enhancing local permitting processes.

In the past several years, culminating in the signing into law of Chapter 205 of the Acts of 2006, Massachusetts is once again looking at how growth and development are planned and regulated across Massachusetts. An important motivating factor in the current effort is concern about the ability to attract and keep businesses and jobs in Massachusetts. The aim is to look for opportunities to streamline the permitting process, by clarifying the rules of the game and making sure that the project review process is as transparent and expeditious as possible. The aim is to clarify and expedite the process, not to relax community standards.

B. ANALYSIS OF PERMITTING BEST PRACTICES

IMPROVING COMMUNICATION WITHIN AND ABOUT LOCAL PERMITTING PROCESSES AND PROCEDURES

1. Single Point of Contact

Description: The designation of a *Single Point of Contact* was identified by MARPA as potentially the single most important step in making local permitting more efficient and user-friendly. Having as its aim a version of “one-stop shopping,” the *Single Point of Contact* would serve as a town’s point person, the primary face of local permitting, and the town’s primary repository of applications and other information regarding all aspects of the local regulatory processes. The *Single Point of Contact* would assist an applicant or applicant’s representative in charting the course of an application, identifying which permits are required, providing names and contact information for PGA staffers and other stakeholders, and supplying checklists and/or permitting flowcharts, as available. The designated *Single Point of Contact* would participate in the scheduling of permit reviews and even be given some authority for scheduling. The *Single Point of Contact* might also function as a kind of permitting ombudsman, helping to resolve issues regarding access to information, scheduling, and the like. The authority for review remains with each PGA.

Current Status: While none of the Island towns use the term, the Building Inspector serves as the de facto *Single Point of Contact* in most Vineyard towns. However, applicants will often go directly to a PGA staff person for certain permitting questions or concerns. While all of these individuals are invariably helpful and accessible to the limits of their time and workloads, none is vested with any authority to schedule meetings or hearings for PGAs other than their own, and none is in a position to disseminate definitive information regarding other PGAs. The MVC DRI coordinator does have all of the responsibilities outlined above for the Commission, including receiving applications, aiding applicants, scheduling hearings, coordinating staff review and comment, and many other related functions.

Stakeholder Comments: In the discussions with Island permitting stakeholders, there was concern that, in the absence of any formal designation of title or authority, none of the de facto point people is necessarily broadly-known as their town’s permitting point person. There was general support for the idea of designating a *Single Point of Contact*, though some concerns were raised by town staff members about the possible workload this might place on an individual and the possible need for additional compensation.

Applicability: It would seem useful that each town formally designate a *Single Point of Contact* and authorize him or her to disseminate applications and information for all town PGAs and, also, to coordinate the technical review and schedule of hearings of those projects requiring examination by multiple PGAs.

2. Local Permitting Guide

Description: A *Local Permitting Guide* is a document that gives an introduction to the who, what, where, how, and why of local permitting. Delays in local permitting processes and related dissatisfactions are often caused by an applicant's or other stakeholder's unfamiliarity with local permitting procedures and filing requirements. A *Local Permitting Guide*, along with *Flowcharts* and *Checklists* (described below), can also provide a helpful overview for town staff and PGA members, not only of their own particular jurisdiction of review but also of the "big picture" view across all town PGAs. To be most effective, a local permitting guide should include the following information:

- An overview of zoning and other local government regulatory functions, along with an explanation of commonly-used terms;
- A description of the functions of the various PGAs involved in local permitting;
- An outline of the typical town permitting processes, e.g., special permit, variance, subdivision approval, etc. – a matrix of a town's various PGAs and the types of permits issued by each would be helpful, as would a flowchart depicting the permitting processes and timeframes (see next section for further discussion);
- Application fees and any applicable exactions/impact fees; and.
- Town Hall contact information.

In all instances, the information should be presented in an easily understandable format.

Current Status: None of the towns presently offer a complete *Local Permitting Guide* that explains local permitting practices, though several towns offer components of such a guide (see next section). The MVC has two guidance documents relative to its regulatory processes, one entitled "Step by Step DRI Process," which gives a general overview, and the other called "Applying for DRI Approval," which is specifically for applicants.

Stakeholder Comments: Stakeholders uniformly supported the idea of a *Local Permitting Guide* for each Island town. A few stakeholders raised the notion of an Island-wide guide to local permitting, with the partial aim of bringing more consistency of information across all of the towns. Town PGA staffers saw such guides as a potential time saver, allowing them to respond to inquiries by simply providing the guide, whether in person or online via their town's website.

Applicability: The publication of a *Local Permitting Guide* in each town would help alleviate confusion about local permitting. It, along with the next two techniques outlined below, would apparently enjoy broad support and could be implemented with a minimum of time and expense, especially since their adoption is administrative rather than legislative in nature.

3. Permitting Flowchart and/or Checklist

Description: Whether or not a *Local Permitting Guide* is created, *Flowcharts and/or Checklists* can be invaluable in illustrating, in simple, sequential terms, the practices and procedures involved in local permitting. A flowchart can distill information visually, concisely presenting pages and pages of zoning by-law provisions (as well as other local regulations) in a simple, easy-to-understand format, often on only one page. Likewise, a checklist can serve as a means of detailing, in a simple format, each regulatory action impacting upon a proposed use or development.

Current Status: Edgartown, Oak Bluffs and West Tisbury provide permit applicants with a checklist of regulatory approvals and/or sign-offs needed for the issuance of a building permit (though none of these checklists is available on-line). Chilmark has several flowcharts, though they have not been compiled in a single document, are not routinely given to the public. At present, none of the other Island towns provide stakeholders with a *Permitting Flowchart and/or Checklist*.

Stakeholder Comments: Many stakeholders thought that utilization of flowcharts and/or permitting checklists would be a helpful addition to local permitting on the Island. Further, those stakeholders familiar with the practice in Edgartown, Oak Bluffs and West Tisbury found their use there to be helpful, particularly for those new to the process. Most stakeholders agreed that implementation of this technique would be best served by its inclusion in a *Local Permitting Guide*.

Applicability: The development of *Permitting Flowcharts and/or Checklists* is an administrative matter that could be implemented relatively easily and would apparently enjoy broad support.

4. Clear Submittal Requirements

Description: In many instances, the permitting process is delayed because applicants are not well prepared and submit incomplete applications, with missing information and/or supporting documents. Regulatory review is often delayed until applicants' submittals are complete and fully supported by accompanying plans and other related documents. The adoption of clearer requirements for complete applications would assist applicants in preparing their submissions and would promote efficiency, transparency and uniformity in local review processes.

Current Status: While each of the towns provides written instructions for completion of most of their application forms, there is not strict compliance with these requirements, such that applications are often scheduled for hearing prior to the receipt of fully-completed plans or in the absence of necessary supporting documents.

Stakeholder Comments: Some town staffers acknowledged that applicants are often allowed to proceed to a PGA hearing without all necessary plans or other supporting documents, largely as a courtesy to regularly appearing applicants and upon such applicant's promise to have the necessary documents in time for the hearing. Also, it seems reasonable to allow applicants to get feedback on preliminary plans, rather than go to the expense of preparing all application documents, only to be told that they have to modify their proposal. Applicants acknowledged this practice as not uncommon but said that a hearing is rarely postponed or continued for lack of the promised plans or supporting documents. In West Tisbury, town staff felt strongly that its submittal requirements are clear and complete and that it was a rare occurrence when an applicant who was allowed to proceed to hearing with incomplete or partial plans, was not prepared with complete plans at the time of the hearing. However, in Chilmark, the practice of occasionally allowing applicants to proceed to hearing has at times resulted in problems and, as a result, the Chilmark PGAs are now much more reluctant to schedule a formal review hearing in the absence of their advance receipt of a complete application package. In general, *Clear Submittal Requirements* was not a priority concern among those stakeholders interviewed by the MVC. One notable exception was with regard to the scenario in which an applicant is allowed to proceed to a hearing with incomplete plans and then, at the hearing, the final plans are so dramatically different than those originally submitted that abutters and other stakeholders (including PGA members) are not prepared to review or comment on the final plans at the hearing. Such a turn of events points up the need for not only *Clear Submittal Requirements* but also, as mentioned above, uniform compliance with same.

Applicability: While the adoption of *Clear Submittal Requirements* is an administrative matter, and thus fairly easily implemented, there is no clear consensus in support of such an initiative, short of perhaps including this as part of a *Local Permitting Guide*.

5. Concurrent Applications and Permitting Timetables

Description: In some instances, a project might require three or more review processes and permits from town boards, the MVC, and occasionally from Commonwealth entities such as MEPA or the Natural Heritage and Endangered Species program. These reviews often take place totally separately and sequentially, i.e. the second does not begin until the first is completed. The process could be streamlined by allowing review by several boards in parallel. This could be further enhanced by creating a common application form.

Current Status: None of the Island towns utilize a common application. Although none of the towns employ any formal coordination of the schedule for a project's permitting across multiple PGAs, it often happens that several Vineyard boards will review projects in parallel. The issue of sequential review is especially problematic when it comes to the relationship between town and MVC review. Once a project is referred to the MVC, some boards continue their review, stopping short of making a decision (which they cannot do before the MVC acts), and board members give testimony in the MVC review. Other boards immediately refer the application to the MVC and do not even look at the proposal until after the Commission acts.

Stakeholder Comments: Many applicants were supportive of the notion of using a combined application, though some were skeptical that a unified application form could be developed in a simple, user-friendly way. Town PGA staffers were uniformly opposed to creating one application form that could be used by multiple PGAs, stating this would cause more trouble it was worth. Some applicants supported formalizing *Concurrent Permitting Timetables*, though several questioned the utility at the town level, except perhaps in the most complicated of cases. PGA staffers were generally opposed to investing any significant effort in formalizing *Concurrent Permitting Timetables* that would only be applicable to a handful of cases. This issue is felt to be a more significant issue with respect to the relation between town and MVC review. There was some consensus that efforts to allow some parallel review would offer two advantages: it could allow town boards to provide informed comment to the MVC's review process and it could shorten the overall permitting timetable. However, at least one town staff person was opposed to the notion of a local PGA continuing its review of a project after referral of same to the MVC, with the concern being that the MVC decision and conditions imposed therein could very well obviate the concurrent work by the local PGA.

Applicability: It would appear that there is little support for a combined application form or for formalizing the concurrent review processes within a town. However, it is suggested that discussions take place between the MVC and town boards to explore how the timetable of MVC and town review can have more overlap.

6. Combined Public Hearings

Description: Permitting timelines could be shortened and the number of meetings reduced through implementation of *Combined Public Hearings* among two or more permit-granting authorities, at which an applicant presents the project to two or more PGAs sitting jointly. The respective PGA members could ask questions to the applicant and consultants, including specific concerns relating to a particular PGA's standard of review. After the close of the hearing, the participating PGAs could each deliberate and vote in turn, or one or more of the PGAs might take the matter under advisement and take a vote at its next scheduled meeting, at which an applicant would not be required to make a new presentation or perhaps even attend.

Current Status: The town of Oak Bluffs uses this technique with regard to the review of affordable housing developments submitted pursuant to M.G.L. c. 40B. In West Tisbury, the Planning Board and Zoning Board of Appeal have sat in joint review of an application for the approval of resident homesite lots and structures thereon, as well as with regard to other projects that involved both PGAs. While the MVC does not presently hold *Combined Public Hearings* with local PGAs, it has done so in the past.

Stakeholder Comments: Participants were generally favorable to the idea of joint hearings, while pointing out some concerns and not clamoring to repeat the experience.

The following positive aspects of joint hearings were mentioned:

- Reducing the number of hearings, saving time and effort for applicants, staff, and members of the public. Applicants mentioned that it was not uncommon to make the same presentation and answer the same questions before multiple boards, even though each has its own standards of review. One stakeholder viewed the notion of more frequent *Combined Public Hearings* between the MVC and town PGAs as an opportunity to both expedite review processes and promote a greater understanding and awareness of each other's focus and concerns, along with their respective scopes and standards of review. Further, it was recommended that the MVC devise a process to implement this technique in a manner that makes it as easy as possible for the towns to participate, e.g., logistics managed by MVC staff, meetings scheduled per local PGA schedule, and meetings held in the town where the subject development was located (rather than at the MVC offices).
- Having multiple aspects of a project reviewed in a single hearing allows all stakeholders to understand the relationships and trade-offs involved, helping to arrive at a solution that deals with all concerns. Some applicants pointed out that plan changes required by a second PGA required returning to a PGA that had already completed its review.

The following drawbacks were mentioned:

- They are difficult to arrange from a scheduling standpoint, largely because they were "one-off" occurrences.
- Combined hearings can be tricky, in that each board has its own way of operating.
- Each PGA has its own mandate, which runs counter to the idea of a single presentation to two or more PGAs. Though some basic parts of the presentation and discussion would be the same, much would be different.
- In some cases, it is preferable that one board to complete its review before the next one starts, such as an Historic District Commission before the Zoning Board of Appeals.
- Several stakeholders suggested that Edgartown could use combined hearings in the area of pier permitting: presently, one has to obtain the approval of the Harbor Advisory Committee,

the Conservation Commission, the Planning Board, and the Building Inspector; this process can take months, largely given the absence of a managed permitting process, such that no one person or collection of staff can act to fully coordinate the review by all three PGAs.

Applicability: *Combined Hearings* do not seem to be a high priority, given concerns that they might be confusing logistically and substantively. This technique may be suitable for implementation on a trial basis or as part of a Pilot Project in an Island town. It could be most useful for boards carrying out similar broad review, such as the MVC and a Planning Board.

7. Pre-Application Process

Description: A *Pre-Application Process* involves one or more meetings with staff, and possibly the PGA, before the formal application is submitted. It could offer several benefits.

- Help ensure the submission of all documents and other information necessary for the formal hearing.
- Create an opportunity for PGA staff to begin to coordinate their resources, where multiple PGAs have shared jurisdiction over a project.
- Allow applicants to get a preliminary understanding of the PGA's, and possibly the public's, concerns at an early stage.
- Help applicants prepare proposals which better reflect the concerns of the reviewing board, thereby reducing the time and cost of redesign.

Current Status: While Tisbury has codified a Pre-Application Conference for developments in its Waterfront/Commercial zoning district, none of the other Island towns use a formal *Pre-Application Process*. Most local PGAs offer applicants some form of informal pre-application review, often in terms of staff assistance with completion of an application form and/or explanation of the submittal requirements. Occasionally, PGAs will informally preview proposals during the course of a regularly scheduled meeting. Sometimes such informal pre-application review can extend to a non-binding assessment of a project's strengths and weaknesses and perhaps even its ultimate likelihood of success. In Chilmark, subdivision proponents are strongly encouraged to appear before the Planning Board for a "pre-submission review" hearing, as codified in the Planning Board subdivision regulations. While not codified, the Chilmark Conservation Commission also encourages applicants to participate in an informal *Pre-Application Process* for select projects. At the MVC, there is a more formal *Pre-Application Process*, involving a Staff-Applicant Meeting prior to the formal submission of a DRI application to discuss a project's parameters, outline the Commission's policies and practices, identify issues warranting further consideration by the applicant, and listing materials needed to complete the application. After the application is submitted, there is a Pre-Application Meeting with the Land Use Planning Committee (made up of Commissioners) to ensure that the application is complete and ready for formal review at the public hearing. Also, the MVC encourages applicants for major projects to meet its Land Use Planning Committee, and in a few cases (e.g. the Hospital and the YMCA) the full Commission, for an informal exchange during the project's preliminary planning.

Stakeholder Comments: Many stakeholders commented that the current arrangement of informal assistance and assessment at the town level is appropriate, particularly given the relatively small size of the Island towns and the relatively low volume of regulatory matters. As mentioned in the summary of stakeholders' comments in the main report, some people expressed concern that informality favors seasoned applicants and thought that a more structured process could be useful. At least one town staff person expressed the concern that formalization of the current arrangement would actually impede expeditious review rather than facilitating it.

Applicability: This technique could be instituted relatively quickly, as an administrative measure. However, despite its apparent benefits, there does not appear to be a great deal of support for implementation of this technique at the town level in the short term.

8. Project Technical Review Team

Description: Established on an ad hoc or continuing basis, a *Project Technical Review Team* may be formed to conducting a shared, professional assessment of a project's particulars by staff or consultants. This is most often employed when a project is subject to the jurisdiction of multiple PGAs or when a project presents uniquely complex issues or concerns. The is to marshal town resources in a concerted fashion, such that no one PGA is left to struggle with the complex technical issues on its own, especially where other town departments have needed resources. While a *Project Technical Review Team* usually involves the staff of PGAs with jurisdiction over a project, the team may also include board members (subject to open meeting law requirements) and other town departments or staff with particular areas of expertise or policy interest (e.g. economic development, housing, infrastructure, etc.). A town may also enlist the technical assistance of its regional planning agency as part of a team approach to project review.

Current Status: None of the Island towns employ this technique on a formal basis, though towns sometimes put together committees on an ad hoc basis to deal with a specific major projects, such as Chilmark's committee working on the Middle Line Path proposal.

Stakeholder Comments: Interviewed stakeholders questioned the utility of establishing a formal *Project Technical Review Team* in towns where the volume of development proposals, particularly those warranting a high level of technical review, is relatively low. On the town side, most stakeholders were content with the current, informal approach. Furthermore, several stakeholders commented that, as major projects on the Island are typically referred to the MVC for review, towns could more often than not rely upon the technical review conducted at the regional level. The MVC sometimes provides technical assistance to town boards for projects reviewed at the town level only.

Applicability: The idea of *Project Technical Review Committee* within a town is not necessarily very relevant on Martha's Vineyard. However, it could be useful to discuss how the MVC could provide greater technical assistance to town boards for projects that are reviewed at the town level only. It would also be useful to look at opportunities for collaboration between the MVC and town boards for coordinating technical review for the relatively small number of very major projects.

9. Inter-Departmental Meetings

Description: The implementation of regularly scheduled *Inter-Departmental Meetings* would help representatives of all PGAs to coordinate their efforts. Such meetings would be largely administrative in nature, intended to coordinate many of the other issues identified in this document such as application forms and filing, scheduling, and assessing the need for additional technical support, either in the form of outside consultants or by way of involving other existing town departments or other local resources.

Current Status: The town of Oak Bluffs holds monthly *Inter-Departmental Meetings* coordinated by the Town Administrator and including town staffers from the building department, zoning board, board of health, and conservation commission. While none of the other Island towns has a formal meeting process, there is considerable informal coordination between town PGA staffers. The MVC holds a weekly DRI Coordination meeting at which staff members review the status of each current application, and plan the various aspects of project review including scheduling, needed information and studies.

Stakeholder Comments: As with several other techniques discussed herein, MVC outreach found a disparity in opinion between the regulators and the regulated. Applicants and their representatives generally felt that such meetings would be a helpful way for towns to coordinate their review processes and ensure that all of the PGAs and their staffers are on the same page with regard to pending applications. Town employees were generally unenthusiastic regarding the need for regularly-scheduled, formal meetings of this kind, although some PGA members were more positive.

Applicability: This would be a relatively simple measure to implement, perhaps on a trial basis or as part of a Pilot Project in one town. However, the fact that this technique does not appear to enjoy broad support among town PGA staffers, the people who would be most directly involved in such an initiative, it seems unlikely that formal *Inter-Departmental Meetings* will be adopted on the Island in the near future, absent an effort by PGAs to urge its adoption.

10. Physical Proximity of PGA Staff

Description: The physical proximity of town employees involved in permitting can contribute positively to the process. A lack of proximity, with staff for various PGAs or related departments in separate locations:

- Is inconvenient for stakeholders, requiring applicants and members of the public to go from place to place to file applications and access information;
- Creates a communication hurdle created for the staff of the various PGAs and other town employees involved in permitting and development issues;
- Adds to the perception that local permitting is not well coordinated.

Current Status: Most of Island towns have their PGA staff and related departments in close proximity, primarily as a result of their relatively small size. For example, the Town of Tisbury houses its Building Department, Board of Health, Conservation Commission, Zoning Board of Appeals, and Planning Board staff together in the Town Hall Annex, thereby facilitating formal and informal communication and providing a one-stop shopping experience for stakeholders; Tisbury PGAs hold their public hearings in the same building, providing additional continuity and convenience. In West Tisbury, the Building Inspector and Board of Health have been temporarily relocated into the old library while other PGA staff are located in Town Hall; presumably they will be reintegrated when the town hall renovation project is completed.

Stakeholder Comments: While this technique was not high on any stakeholder's priority list, several interviewees acknowledged the negative inference to be drawn by those new to local permitting when the various PGAs, their staff, and other related departments are located separate and apart from each other, whether on separate floors of a town hall or in separate buildings altogether.

Applicability: In the relatively small Island towns, *Physical Proximity of PGAs* is not as much of an issue as it is elsewhere. However, in that several towns are contemplating changes to municipal offices in the near future, it would be useful that they consider locating PGA staff in close proximity.

11. Development Agreements

Description: *Development Agreements* are best explained as a contract between the town and a developer which clearly sets out the developer's rights and obligations, based on the permitting approval(s) granted or to be granted by local PGA(s). They are most often used for large or otherwise complicated real estate developments. Beyond mere reliance on the terms and conditions of one or more regulatory decisions, *Development Agreements* can incorporate all of the specific parameters of a town's regulatory approvals in one document. As enforceable contracts, *Development Agreements*, are also a useful means of avoiding costly, protracted litigation; with their clearly defined terms and conditions, *Development Agreements* allow a court to quickly and easily assess a party's rights and responsibilities, and order compliance. This can help avoid the costly and time-consuming process for a town to go to court to seek enforcement of the conditions of a particular permit approval, sometimes years after the decision itself was written and most times when a project is well underway. Moreover, a court will often be reluctant to order a developer to demolish and/or reconstruct a fully- or even partially-built development or portion thereof that is not in compliance with the letter of a PGA's written decision. In contrast, a well-written *Development Agreement* would clearly state the terms and conditions of development approval and often contain schedules or other benchmarks for required completion/compliance, as well as penalty provisions for noncompliance.

Current Status: None of the Island towns employ *Development Agreements* on a regular basis, nor does the MVC. In the course of the review and approval of subdivisions, however, it is the usual practice in each of the Island towns to require covenants by the developer, with the town identified as an interested party for purposes of enforcement. On the regional level, there is a development agreement between the MVC and the Airport for the development of the Airport Business Park.

Stakeholder Comments: None of the stakeholders interviewed during the course of the MVC outreach could recall an instance when such an agreement was utilized on the Island. There have been several large-scale projects approved by the MVC that probably would have benefited from the use of a *Development Agreement*. To the extent there was any consensus among stakeholders as to the utility of this technique, most felt that it was best suited to the MVC.

Applicability: The relatively infrequency of large-scale projects at the town level leaves this technique low on most priority lists. The MVC might consider the use of this technique in appropriate circumstances, in order to better equip a town or the MVC to seek enforcement with a written contract, negotiated and agreed to by all parties. *Development Agreements* may be adopted on an administrative basis or, alternatively, their use or availability may be codified in a local by-law.

12. Greater Use of Third-Party Consultants

Description: *Greater Use of Third-Party Consultants* could expand a locality's ability to professionally and efficiently assess a development project and to ensure compliance with approvals during the course of construction and subsequent use. This offers several advantages to both the town and developer:

- It allows PGAs to review the technical aspects of large or otherwise complicated projects when they don't have professional staff available;
- It can improve the thoroughness of review and afford a measure of efficiency not always available in even the best-staffed towns.
- It allows independent review to be financed directly by the applicant, particularly useful in times of financial limitations on the part of local towns;
- It offers towns a greater degree of credibility in terms of the validity of their decision-making;
- It helps a PGA to devise and compose technical conditions that are clear to the proponent, enforceable, and to the benefit of the public interest;
- Helps a PGA to avoid the situation where a major project, approved without the benefit of expertise, such that missing or poorly worded conditions leave the public interest – or even the project proponent(s) - at a loss.

Current Status: The towns of Tisbury and West Tisbury zoning by-laws provide for the utilization of applicant-funded third party consultants in their review of wireless communication facilities. The West Tisbury zoning by-law provides for the use of applicant-funded consultants by the zoning and planning boards for any application for a special permit or site plan review. Also, the West Tisbury Conservation Commission employs applicant-funded consultants on an as-needed basis. On occasion, the Chilmark Planning Board uses applicant-funded road and traffic engineers, and is presently in the process of adopting a formal regulation in this regard (pursuant to M.G.L. c. 44, § 53G) that provides for the establishment of a special account for the deposit of applicant funds for the payment of outside consultants to serve ZBAs, planning boards, or conservation commissions. Additionally, the Chilmark Conservation Commission occasionally employs applicant-funded consultants for their review processes. At the regional level, the MVC has had occasion to employ applicant-funded third-party consultants relative to traffic impact analyses and other technical matters.

Stakeholder Comments: Most stakeholders generally favor the *Greater Use of Third-Party Consultants*. While some applicants resist the notion of having to pay an independent third-party to assess their proposed project – particularly when they are already typically paying their own consultants for the very same work, albeit from a different perspective – most concede that the cost is, more often than not, offset by the resulting efficiency, time-saving, and professional level of review afforded by third-party consultants.

Applicability: Ultimately, all of the towns would benefit from the availability of such a tool, the implementation of which should properly be in the form of a by-law amendment. Informal application on a case-by-case basis, with the agreement of the applicant, may be a suitable alternative to formal adoption.

STANDARDIZATION OF THE PERMITTING PROCESS

13. Exactions and Impact Fees

Description: Exactions in the local permitting context are commonly known as impact fees. These fees may be assessed against developers of large projects having substantial impacts on a town's public infrastructure (e.g., roads, sewers, open space, etc.) and/or delivery of services (e.g., fire and police, schools, etc.). While there is no statutory authority for the assessment of impact fees, Massachusetts courts have consistently upheld their validity, subject to fairly strict limitations, such that there must be a clear nexus between a development's actual impact and the fees assessed to mitigate these impacts. As with any other such fees, impact fees must be clearly detailed in a town's zoning by-law, susceptible to calculation by a standardized formula, and applied equitably from project to project; clarity and objectivity are key. Critical to the success of this technique is the existence of a local Master Plan or some other form of capital facilities planning document underpinning the nexus between the impact(s) and the fee(s), the point being that such fees should not be enacted or implemented in a vacuum.

Current Status: There is very little formal use of impact fees among Island towns, or reference to them in town by-laws or Master Plans. Some towns require that, in a residential subdivision over a certain size, some affordable housing lots or units be provided (e.g. in West Tisbury, the requirement is one in six). Additionally, the town of Oak Bluffs levies a parking mitigation fee for commercial development in its downtown business district. Also, some town PGAs negotiate impact fees from applicants, most commonly with regard to the creation of affordable housing. The MVC's Housing Policy outlines two types of mitigation to offset the impacts of development on the supply of affordable housing, namely that one of every ten new residential lots or units be used for affordable housing, and that commercial developments make an affordable housing contribution based upon its size/scope. The Commission's pending Energy and Transportation policies will likely include the possibility of financial mitigation for certain projects.

Stakeholder Comments: Not surprisingly, applicants and their representatives were not generally supportive of the assessment of *Exactions and Impact Fees* on developments on Martha's Vineyard, while town staffers and PGA members were largely neutral in their opinions regarding this technique.

Applicability: This technique may warrant further study to determine if and when the assessment of *Exactions and Impact Fees* would be feasible, how they could be framed, and whether such fees would actually generate an appropriate level of mitigation to warrant their administration. Any town implementation of *Exactions/Impact Fees* should be in the form of a by-law amendment and any town seeking to pursue this technique should first re-examine its Master Plan to establish a strong planning basis for its use. It would be useful that the Island Plan address the possibility of greater use of this technique both at the town and MVC level.

14. Objective Criteria for Special Permits, Of-Right Zoning, and Master Plans

Description: The MARPA guide discusses three distinct, though related, tools in this section:

- Greater use of *Of-Right Zoning* (typically with *Site Plan Review*);
- Outlining *Objective Criteria* for projects subject to discretionary review;
- Using a *Master Plan* in both cases as a tool for identifying regulations or criteria as well as the geographic areas within which they would apply.

Of-Right Zoning

Of-Right Zoning contemplates a town permitting a greater number of uses “as of right,” recognizing that certain types of development are acceptable and appropriate in certain areas of a town. While every municipality allows certain types of uses without review by a PGA, *Of-Right Zoning* in the context of streamlined permitting calls for a town to expand the range of development types allowed in this way. By increasing the use of such by-right development, a town can eliminate time-consuming and often unnecessary review processes. These types of development may often be identified as a result of their having been commonly allowed time and again by special permit or some other form of relief. Ideally, the location and type of by-right developments are identified in a town’s *Master Plan* or other planning document. In order to allow some review of a project’s design, the expanded use of *Of-Right Zoning* could be accompanied by use of an advisory *Site Plan Review* process (see section 15).

Objective Criteria

For projects subject to discretionary review by a PGA, the publication of criteria, performance standards, or policies for project design and review offers several advantages:

- They help applicants understand what the PGA is looking for, enabling them to design the projects in a way most likely to be approved;
- They help the PGA in carrying out its review;
- They improve the transparency of the process.

Also, the process of drafting criteria is very useful to help a town and/or its PGA(s) to clarify what its policies are. Again, these criteria should reflect the objectives articulated in a town’s *Master Plan*.

Master Plans

Chilmark, Edgartown, Oak Bluffs, and West Tisbury have Master Plans. Tisbury is in the process of preparing one. Because Aquinnah has an town-wide District of Critical Planning Concern, it considers that its DCPC regulations cover much of the same material as a Master Plan.

Current Status: The towns of Oak Bluffs and West Tisbury have in place a form of *Of-Right Zoning*, in the form of their site plan review processes, such that certain uses are allowed in certain districts as of right, subject only to discretionary site plan review by their Planning Boards. However, the *Master Plan* in neither town addresses *Of-Right Zoning*, either directly or otherwise.

Several Island boards have adopted *Objective Criteria* in the form of guidelines or policies.

- Martha's Vineyard Commission: The Commission uses the general criteria in the Martha's Vineyard Commission Act (Chapter 831) as well as the objectives and policies in the

1991 Regional Island Plan. In addition, the MVC is in the process of adopting specific DRI Policies on various topics and has adopted policies on Open Space Preservation and Water Quality. It has also adopted a draft policy on Energy and is currently working on policies relative to Transportation and Landscaping.

- Historic District Commissions: The Cottage City Historic District Commission in Oak Bluffs adopted a set of Architectural Design Guidelines.
- Conservation Commissions: Conservation Commissions use specific performance standards for most resource areas (except buffer), which are provided by the Commonwealth in the Wetlands Protection Act regulations (310 CMR 10).
- Site Plan Review Committees: A number of guidance documents are used for review in Districts of Critical Planning Concern. Good examples are: the Moshup Trail District and the Oak Bluffs Harbor District. These guidance documents help both developers and reviewers by clearly setting out expectations.
- Planning Boards: Boards often refer to their town's master plans or open space plans, as discussed below. Additionally, by way of example, Edgartown has an Upper Main Street Plan that outlines criteria for project design.

In terms of underlying comprehensive land use plans, the towns of Chilmark, Edgartown, Oak Bluffs, and West Tisbury have adopted Master Plans. Furthermore, all six towns have Community Development Plans prepared with the technical assistance of the MVC. For its part, the MVC is in the midst of a multi-year comprehensive Island Plan process. At present, none of the existing town Master Plans directly addresses the issues of *Of-Right Zoning* or *Site Plan Review* (discussed below), nor do any of the Community Development Plans. As discussed above, while West Tisbury and Oak Bluffs employ a form of *Of-Right Zoning*, the absence of any explicit planning foundation is a weakness that may warrant attention. In fact, further attention to this issue by Oak Bluffs and West Tisbury, e.g., Master Plan update, quantitative look at actual use of site plan review, etc., might serve as a model for implementation in other Island towns.

Stakeholder Comments: Based upon the outreach conducted by the MVC, it seems unlikely that greater use of *Of-Right Zoning* would find broad support among the island's PGAs, all of whom are generally reluctant to cede their permitting authority in the manner suggested by *Of-Right Zoning*, even if accompanied by a *Site Plan Review* process. Not surprisingly, other stakeholders, particularly developers and their representatives, were more open to the notion of *Of-Right Zoning*, though most felt that the inclusion of *Site Plan Review*, even if discretionary, could result in the same kind of delays occasioned by the usual special permit process. At least one stakeholder expressed concern about the procedure involved with discretionary *Site Plan Review*, whereby public hearings are not subject to the same notice requirements as other PGA review processes, with the potential for interested parties to be left without an opportunity to be heard. The subject of wider use of *Objective Criteria* did not come up in the outreach process to stakeholders, though it may be expected that PGAs would resist what they perceived as constraints upon the scope of their decision-making authority.

Applicants and their representatives generally favored greater reliance on and/or reference to town *Master Plans* or other comprehensive planning documents in making regulatory decisions. In contrast, many town staffers felt less need to relate regulatory decision making to comprehensive planning, opining instead that the language in the their town's by-law provided

sufficient guidance for PGA decision-making, especially when combined with statutory standards of review for the various permits at issue.

Applicability: Given the apparent lack of support for greater use of *Of-Right Zoning*, particularly on the part of town PGAs, combined with the need to amend local zoning in order to implement same, it seems unlikely that this tool will be implemented in the remaining Island towns anytime soon, although further consideration might be given in the context of the Island Plan and other general planning efforts. Additionally, it would appear that use of *Objective Criteria* in project review could increase with MVC and town board efforts to better document the informal criteria presently used to review projects. The completion of the Island Plan as well as updates to town plans could translate into greater use of these techniques and improve the relationship between planning and regulation on Martha's Vineyard.

15. Effective Use of Site Plan Approval

Description: The MARPA guide outlines two ways of by which municipalities review development proposals:

- Site Plan Approval - Special Permits or a similar process in which the board can condition or deny an application;
- Site Plan Review – in which a board can impose reasonable conditions but cannot deny a proposal.

As discussed above, *Site Plan Review* can be used in conjunction with *Of-Right Zoning*, to give a board some role in shaping a project, while at the same time assuring applicants that their project will ultimately be approved. Whether an approval process or only an advisory process, it is most useful to have objective criteria to help PGA members, applicants, and members of the public better understand which development features are acceptable and which are not. This can reduce the time needed for project design discussions with a PGA or its staff, with related multiple plan iterations, delay, and expense.

Current Status: All Island towns have a special permit process for certain applications. The towns of Oak Bluffs and West Tisbury both utilize *Site Plan Review* with regard to uses that are otherwise permitted as of right. The remaining Island towns utilize a form of *Site Plan Review* with regard to the permitting of of-right developments in Districts of Critical Planning Concern.

Stakeholder Comments: Applicants and their representatives expressed concern that use of *Site Plan Review*, even with regard to uses that are permitted as of right, does not and will not streamline local permitting, so long as there is a PGA review process involved, whether or not it has the right to deny the application. Some stakeholders voiced the opinion that the towns would be better off revising existing or adopting new Master Plans that provided for more as-of-right developments in designated areas rather than implementing *Site Plan Review*.

Applicability: Like many of the techniques discussed herein, implementation of *Site Plan Review* would benefit greatly from strategic master planning that identifies both desirable uses and designated growth and development areas within a town. In the absence of such planning, the efficacy of *Site Plan Review* will be marginal, particularly given the general lack of interest in using this technique on the part of many stakeholders, combined with the need for a by-law amendment to put it in place.

16. Two-Tier Assessment Process

Description: A *Two-Tier Assessment Process* speaks to the reality that most development proposals are somewhat routine and could be handled in a more expeditious fashion than other, more infrequent, complex proposals needing more substantial review. The idea is to establish thresholds for differing levels of review, with the routine applications, projects of limited size or scope, or proposals that meet certain desired performance criteria, being routed to a different, more expeditious permitting process, e.g. delegation to a sub-committee, tighter timelines for review and approval, or even delegation to staff (see next section). Streamlining review of routine or low-impact applications would not only benefit the applicant, but could free up PGA and staff resources to spend on more complicated cases.

Current Status: None of the Island towns employs any form of *Two-Tier Assessment Process* as described above, nor does the MVC. In many towns, minor changes such as small accessory structures, re-roofing, window replacement, and fences, do not require a permit; in Oak Bluffs, the Assessor must first confirm information such as ownership and parcel size for these projects.

Stakeholder Comments: The notion that more common or routine cases could be taken out of the mainstream review process and put on a separate, expedited review track is appealing to most stakeholders. Some PGA staff and other town departments, though, raised concerns that the introduction of new means of regulatory review will increase their workload and/or negatively effect their ability to do their current work, i.e., new doesn't necessarily mean better. Other town staffers stated that more routine cases are *already* handled more expeditiously than more complicated cases, subject of course to the notice requirements and other statutory limitations.

Applicability: A certain degree of fast-tracking might be possible to implement administratively; however some aspects such as formal delegation of responsibility would need a by-law amendment. The challenge is doing this without compromising the substance of the review process. Given town staff resistance to this technique, and despite the interest of other stakeholders, it seem unlikely that any form of *Two-Tier Assessment Process* might be implemented on the Island anytime soon, though the MVC may consider such a measure, perhaps on a trial basis, for certain types of DRIs. In the longer term, this could be a promising technique if tied into performance criteria connected with the Island Plan or a town's Master Plan. Offering more expeditious review for a project that meets certain criteria gives an applicant a real incentive to do this. For example, the DRI Checklist for determining which projects need to be referred to the Martha's Vineyard Commission could include certain performance criteria related, say, to meeting wastewater standards or providing affordable housing so that only applicants that didn't meet those criteria would be required to go through full MVC review as a DRI.

17. Delegation of Authority to Staff

Description: In synch with a *Two-Tier Assessment Process*, *Delegation of Authority to Staff* is a means of shifting resources such that review of certain low-impact or routine matters are delegated to staff, thereby freeing up remaining resources (e.g., time, staff, PGA members, etc.) to focus on more substantive and/or complicated matters. Such delegation of authority depends heavily on the setting of clear and objective thresholds for such delegation as well as clear and objective parameters for the staff's scope of review.

Current Status: Each of the Island towns employ this technique to a certain degree, primarily in the area of Planning Board subdivision review and approval, such that a Planning Board may have occasion to delegate certain construction and/or compliance oversight to an agent, the agent being a staffer (board staff or building inspector), a board member, or, perhaps, an outside consultant, should particular expertise be required. Additionally, Island town Conservation Commissions delegate a certain amount of authority to their staff for inspections and the issuance of Certificates of Compliance. The MVC, on an ad hoc basis, delegates its authority to issue Certificates of Compliance to its Executive Director, though this rarely occurs.

Stakeholder Comments: There was a fair amount of interest, with mixed feelings, about the possibility of *Delegation of Authority to Staff*. Those who were generally more receptive to techniques designed to streamline local permitting were, for the most part, in favor of the notion of *Delegation of Authority to Staff*. However, several stakeholders, including staff, questioned the impact on staff workload, and the ability of some PGA staffers to handle delegation of PGA authority to them, even with clear, objective criteria for delegation and a narrowly-drawn scope of review. (This could be addressed to some extent with additional training for staff and PGA members, as discussed in technique 20.)

Applicability: The biggest stumbling block to implementation of this technique would be the PGA staffers themselves, many of whom appear unwilling or unable to handle what they see as more work or changes to the way they currently do their work. Added to this is the apparent reluctance on the part of some PGA's to cede any of their authority to anyone, whether a trusted staff person or not. Just as clearly, however, there are some island PGA's that would gladly vest their staff with more authority and, for the most part, PGA staff would probably do an excellent job in carrying out such expanded duties. Also, the legal limits for such delegation need to be clarified. It would be interesting to attempt this on a trial basis, either at the MVC or town board level, especially if this could be implemented administratively.

18. Standardization of Review

Description: This best practice involves moving from multiple, different review processes to a more broad-based, cross-departmental approach, moving the regulators out of their respective silos and into a more cooperative mode of operation. The aim would be to increase standardization various aspects of application and review processes across all town PGAs. A first step could be the creation of a combined permit application, as discussed in appendix B5

Current Status: None of the Island towns employ standardized review processes at present.

Stakeholder Comments: In terms of stakeholder reaction, this initiative was most notable for the divide in opinion between the regulated and the regulators, such that developers, builders, engineers, architects, etc., all viewed the notion of standardized review processes in a favorable light while the majority of PGA members and staff were resistant to the idea of any form of town-wide reorganization of review processes across multiple PGAs and/or departments.

Applicability: While *Standardization of Review Processes* may seem incongruous with local regulatory review by multiple PGAs and/or departments involved with local permitting, each with its own practices, procedures and standards of review, there would appear to be benefits in moving towards greater standardization. A useful first step would be to develop and implement a master permit application, something that can be implemented administratively.

RESOURCES FOR IMPROVING PERMITTING PERFORMANCE

19. Adequate Staffing Levels

Description: This best practice involves ensuring that a town has adequate staffing levels, and that staff is able to deal with the challenges it faces, both today, and in the future if some of the techniques in this report are implemented.

Current Status: It would appear that all Island towns and the MVC have adequate levels adequate to meet current regulatory caseloads.

Stakeholder Comments: The general consensus among Island stakeholders interviewed for this project is that current town staffing is adequate to the typical flow of projects going through an Island town's permitting processes in any given time period. However, anecdotal evidence suggests that adequate staffing issues arise when a project of significance is proposed. Even though these projects are usually referred to the MVC, eventually such projects are returned to the local PGAs for review. On these occasions, many interviewed stakeholders noted, the lack of professional planning experience comes to the fore. While some stakeholders said that this lack of professional experience was offset by the rigorous review of such projects by the MVC, others, including some town staff, stated that, even with prior MVC review, projects of significance, either in terms of size or other issues/impacts, can create problems at the local level, in terms of an individual PGA's ability to process such projects, both substantively and procedurally. These issues are exacerbated by the reality that major projects typically require permits from multiple PGAs and/or departments resulting in what some stakeholders felt was a project being thrown into a maze of review processes, with procedural hurdles combining with a lack of substantive staff or PGA training or experience. Stakeholders felt that current staff acquit themselves well in most circumstances, but sometimes have difficulty when, in addition to handling a full workload of administrative matters, they are expected to be transformed into permitting or planning professionals for certain applications. Stakeholders generally felt that current town PGA staffs, to a person, are capable of making the transition from largely administrative support to professional permitting specialists.

Applicability: As discussed above, the main challenge is not dealing with current caseloads, but addressing the impact of the implementation of the techniques discussed in this report on staffing levels and training. Implementing the techniques in this report does not necessarily mean more staff or an increased workload for existing staff – given other offsets discussed in this report – many involve a different orientation as well as more training, and greater responsibility. The aim is to streamline administrative matters so that local PGA staff can transition into playing a greater role in substantive parts of the permitting process including dealing directly with more routine applications and helping identify and resolving issues raised larger or more complex projects. Some PGA staff have already started the transition from a wholly administrative role to that of permitting specialist. As with many other techniques discussed herein, the provision of *Adequate Staffing Levels* is an administrative matter requiring no by-law amendment.

20. Create a Culture of Training

Description: This best practice involves improving training for PGA members and staff. While there are a number of training opportunities presented throughout each year across Massachusetts, it is clear that something needs to be done to increase participation in same - by PGAs, their staff, and other stakeholders, as well. One suggestion has been a more focused approach to training, such that a program would hone in on just one (or maybe two) issue(s) of importance to the target audience, whether it be PGA members, staff, both, and/or others. While this approach will be more time consuming and not as cost effective, these concerns would be offset by the benefits of more frequent training sessions and a more targeted range of offerings, such that trainees could pick and choose based upon specific areas of interest and/or concern as well as time availability. In addition to a greater range of targeted offerings, the locations and/or modes of training should be designed to facilitate ease of access and, thus, greater participation. Web casts and/or online computer training have been scheduled with this aim in mind. Regardless of the means, raising the level of technical proficiency of both PGA members and their staff is integral to the successful implementation of virtually every other technique discussed herein.

Current Status: Local PGA members and their staff attend training sessions on a sporadic basis, with some board members showing much more interest and others rarely or never attending. In no instance is the training required or otherwise mandated by the towns.

Stakeholder Comments: Stakeholder response regarding this technique was mixed, in that not everybody interviewed agreed that more training would be helpful to local PGAs or their staff. This thinking was not limited to staff or PGA members (who might be understandably looking to avoid unremunerated overtime) but was shared by a few developers and third-party professionals. With regard to the current Citizen Planner Training Collaborative offerings, one common complaint among stakeholders was that, while past trainings have been helpful and/or informative, the generalized nature of such trainings (their having been necessarily diluted for presentation to a wide audience, and then by professionals typically unfamiliar with local practice, procedure, and case type) has limited their utility. Stakeholders noted that, while such generic presentations can be helpful to new PGA members or staff, more experienced stakeholders rarely get much from such sessions, save for perhaps during the question-and-answer portions of same, and then largely as a result of the participation and responses of their fellow PGA members and/or staff from other towns. Stakeholders suggested that imposing mandatory training, either for staff or PGA members, would meet with resistance, no matter how convenient or helpful the training. As part of facilitating greater and wider participation in training, it was also suggested that the MVC take more of a role in training relative to local permitting.

Applicability: As noted above, efforts to *Create a Culture of Training* is one of those initiatives that, while possibly creating additional expense in the first instance, will clearly pay dividends, both in and of itself and in relation to the implementation of the other techniques discussed herein. Furthermore, it would undoubtedly serve everyone's interest if the training offerings were broadened to include topics of interest to both the regulators and the regulated. At the very least, some attention and effort should be made to bring developers and their third-party professionals into the training mix. Rather than focusing on matters solely from the town/PGA perspective, trainings involving other stakeholders, including applicants and abutters, would provide the kind

of broader, two-way-street perspective that would help make local permitting better for everyone, including the public at large. Additionally, while the MVC has been instrumental in hosting Citizen Planner Training Collaborative sessions over the years, usually once or twice yearly, in addition to bringing other such off-Island expertise and/or learning opportunities to local PGAs and their staff, there seems to be stakeholder support for the MVC taking more of a lead in this regard, such that the MVC might hold more regular, targeted training sessions, perhaps quarterly or even monthly, either at the MVC offices or in individual towns. Such local trainings could be closely tailored to those interests or concerns unique to the Island and its towns. The MVC, with its in-house expertise and ready access to more, combined with its proximity to and working relationships with interested stakeholders, can offer more frequent, convenient, and targeted trainings designed explicitly for the Island towns and stakeholders. While clearly presenting more work for the Commission, the dividends to be paid, not only in terms of increased professionalism on the part of stakeholders but also in terms of fostering and cultivating positive communications and working relationships among all involved parties, would be well worth the time and effort involved.

21. Town Website Improvements

Description: Stakeholders and the general public increasingly expect that information regarding local permitting will be available on-line.

Basic information would include:

- Zoning by-laws and other regulations,
- The Local Permitting Guide,
- The town's Master Plan and/or other comprehensive planning or policy documents;
- Names of local PGA members and their staff, along with contact information and hours of operation,
- Application forms, directions for completion, and information regarding the scheduling of hearings.

Better still is to include information about current applications such as:

- Hearing notices and agendas for upcoming meetings,
- Pending applications and supporting documents,
- Decisions from past hearings.

A state-of-the-art website might provide for on-line applications and submission of testimony.

Current Status: The availability of on-line information related to the permitting process varies significantly from one Vineyard town to another; some have very extensive information – including by-laws, application forms, meeting minutes, and past decisions – while others have little or no information. The MVC's website provides guidance documents, an application form, various policies, copies of previous decisions and meeting minutes, a calendar listing upcoming hearings, all application materials (plans, staff report, etc.) and public comments received. None of the Island towns or the MVC provide for on-line applications or submission of public comments. Table 3 gives a more complete overview of the content of existing websites.

Stakeholder Comments: Most stakeholders felt that more information should be available on-line, though a few people were concerned about efforts to formalize what has historically been a matter for small-town, informal, face-to-face interaction. Several town staffers interviewed felt that while there was a need for greater on-line availability of permitting forms and information, and growing demand for this among applicants and the general public, they felt that boards of selection may not be willing to devoting resources to such an initiative.

Applicability: There is a growing level of expectation among stakeholders and the general public that information regarding local government and its regulatory processes will be available on-line. While cost considerations are clearly a factor in improving a town's website, it appears on Martha's Vineyard that the issue is not so much funding but, rather, lack of interest in actually providing the information at hand or, perhaps, a matter of a disconnect between the information technology ("IT") administrators/technicians and the PGAs and their staff, such that the capability is there but the IT folks have no idea that there is a desire or need to make local permitting information and/or documents more accessible.

	Aquinnah	Chilmark	Edgartown	Oak Bluffs	Tisbury	West Tisbury	MVC
Zoning By-Law							
Master Plan/Other Comprehensive Plan							
Special Permit Application(s)			1				
Application Instructions				2	3		
Zoning Map(s)							
Building Permit Application(s)		4					N/A
Subdivision Regulations							
Variance Application(s)							
Town Hall Contact Information			5				
Meeting Notices and Agendas		6 7	8		9		
PGA Rules and Regulations		10				11	
Pending Applications and Public Comments							
PGA Decisions		12					
Appeal Process Explanation						13	
Local Permitting Guide					14	15	
Flowchart(s)/Checklist(s)						16	
Meeting Minutes		17					
Site Review Guidelines		18					
On-Line Application Filing					19		
		Full and formal implementation				Partial implementation	

¹ Edgartown’s Planning Board page explains process for obtaining a Coastal District Special Permit and provides the relevant application. The town has no other application forms on-line.

² Oak Bluffs building permit application instructions are available on-line, with a checklist for sign-offs.

³ Tisbury ZBA has its application instructions on line but other town PGAs do not.

⁴ Chilmark’s “Building and Zoning” page includes it’s building permit application form and related “guidance” documents (HVAC, lighting, and development “guidelines”), along with a fee schedule.

⁵ The Edgartown “Planning Office” page provides staff contact information, hours of operation, and an e-mail hotlink. It also contains a link to a Planning Board page, which identifies the Board members.

⁶ Chilmark has an extensive Meeting Calendar on-line, which includes both town PGA meetings and island-wide meetings, with pull-downs for agendas, but no agenda information is provided therein.

⁷ Chilmark’s Planning Board page has outdated meeting agendas. Chilmark’s Zoning Board page also has a pull-down for meeting agendas but there is no information provided thereunder.

⁸ The Edgartown Planning Board page indicates the dates of recent meetings but no future meetings.

⁹ The Tisbury ConComm and ZBA have an on-line calendar on the town website but it either has no information posted or is password protected such that the general public cannot access it.

¹⁰ The Chilmark Planning Board has its Subdivision Rules and Regulations posted on-line. The Chilmark Conservation Commission posts its Wetlands By-law, as amended, on-line.

¹¹ The West Tisbury Planning Board has its rules and regulations on-line.

¹² Chilmark’s Site Review Committee has all of its “findings” posted on-line.

¹³ West Tisbury’s ZBA page provides explanation of appeal process but other town PGAs do not.

¹⁴ Tisbury PGAs all have a “Frequently Asked Questions” link on their webpages.

¹⁵ West Tisbury ZBA provides on-line explanation of its process and procedure - other town PGAs do not.

¹⁶ West Tisbury’s Building Department webpage has its building permit checklist on-line.

¹⁷ Chilmark has an excellent, up-to-date on-line archive of meeting minutes for all of its public meetings.

¹⁸ Chilmark’s Site Review Committee webpage has a Site Review “Findings Template.”

¹⁹ The Tisbury ConComm webpage has a direct link to the state DEP online filing system.

22. Electronic Permit Tracking Software

Description: New technology makes it easier to track current and past permit applications, and to provide access to this information to a wide array of stakeholders. This can involve using either specialized software applications or using a generic database (such as Microsoft Excel and/or Access). Ideally, any such systems will be interconnected with a Geographic Information System to allow mapping of subject properties along with the creation of abutters lists for notification purposes. Ultimately, such systems can provide ready access to information regarding past and pending local regulatory matters, including access by multiple PGAs and other town departments involved in local permitting, thus facilitating the creation of one shared, accessible database across multiple PGAs and departments.

Current Status: *Electronic Permit-Tracking Software* is in use in two towns on the Island – Oak Bluffs and West Tisbury – both using GeoTMS supplied by Des Lauriers Municipal Solutions Inc. While these systems are available to multiple PGAs and departments in both these towns, not all potential users avail themselves of this resource. The MVC employs a Microsoft Access-based system to maintain its database of regulatory files. This database is linked to GIS to allow mapping of all Island parcels subject to MVC regulatory decisions. In Chilmark, there is a database for subdivisions filed with the Planning Board and a database for Conservation Commission filings, though neither has been updated in the past several years.

Stakeholder Comments: In those towns that do employ *Electronic Permit Tracking Software*, several town staffers concede that the systems are not being used to their fullest potential. Those PGAs and staff that use these systems extensively (and work to ensure that the software is up to date and the data entered accurate) report high levels of satisfaction. Those PGAs and/or staff that have resisted implementing this initiative have stated an unwillingness to change the ways in which data has historically been managed and reported. Some staff members have expressed an unwillingness to invest the time necessary to get up to speed on such software applications. A reluctance to share information across department lines appears to be an impediment to full implementation of this technique.

Applicability: In those towns where no such software or systems are in place or otherwise available, there is an awareness of the potential for this initiative and, in some cases, an interest in pursuing this initiative. However, many PGAs and/or staff are constrained from pursuing such initiatives because of financial considerations and/or lack of decision-making authority. It would be useful to have the PGA staff in West Tisbury and Oak Bluffs share their evaluations of their experiences with other town boards and staff, so the latter could decide whether this is an option worth considering.

23. On-Line Application Filing

Description: The aim of this initiative is not only to provide applicants with an alternative and perhaps easier means of submitting applications but also to allow the electronic sharing of applications so filed with other PGAs and staff and, potentially, with other stakeholders and the public at large. As with the case of *Electronic Permit Tracking Software* and other digital database management tools, this initiative relies upon potentially costly acquisition, set-up, and ongoing software maintenance fees, as well as a degree of vigilance on the part of PGAs and their staff in terms of data entry and the updating of information as it develops during the course of a project's review.

Current Status: Neither the MVC nor any of the island towns employ electronic permit application filing.

Stakeholder Comments: Several stakeholders expressed interest and support for such an initiative. Both PGA members and their staff, as well as applicants and their representatives, supported the notion of on-line application filing, though all felt that the cost and possible complications associated with implementation would be significant stumbling blocks. Several stakeholders felt that this initiative, of all the techniques discussed herein, was the one that was the most unlikely to actually be implemented any time soon and, notably, the one that perhaps was not yet necessary, especially if other more practical and easier-to-implement initiatives were first put in place. Stakeholders thus seemed content with the prospect of continued paper filing, so long as other efficiencies, transparencies, and user-friendly techniques were implemented.

Applicability: The relatively low volume of developments on the Vineyard does not seem to warrant the expense and training involved in this. However, it might be useful to look at this on a trial basis, perhaps at the MVC level or as part of a Pilot Project in one of the Island towns. If successful, other PGAs could consider using it.

PLANNING

Note: The following three inter-related techniques identified in the MARPA deal mainly with larger scale industrial and commercial developments of a scope beyond what we usually see on Martha's Vineyard. However, they might have some limited use on the Island for a variety of projects, particularly in relation to ongoing and future planning efforts.

24. Selecting Preferred Sites for Commercial or Industrial Development

Description: The pre-selection of preferred sites for major development assist applicants in focusing their attentions on sites where the community has indicated that it is receptive to the contemplated type of development. With the benefit of a Master Plan and/or other comprehensive planning documents, a town may identify specific areas for various types of development, indicating what uses and project design could be acceptable. The town could also ensure that adequate infrastructure is available. It could even pre-approve certain types of development (see *Pre-Permitting* below).

Current Status: None of the Island towns has a Site Selection Guide to assist stakeholders and the public in focusing on specific parcels or areas for desirable development

Stakeholder Comments: This technique has not been discussed during the MVC outreach to date.

Applicability: While the Island towns' Master Plans and Community Development Plans address the issues of future growth in a general way, none is specific enough to clearly identify priority development sites and their related parameters. The Island's small size might make it easier to identify the relatively few areas where there is likely to be a community consensus in favor of encouraging development; at the same time, this small size may make the preparation of a formal guide unnecessary. The Island Plan, in cooperation with town Planning Boards, could identify those areas where certain types of development might be favored.

25. Designating Priority Development Sites Under Chapter 43D

Description: This involves taking some of the sites identified in Best Practice #24, and officially designating them under Chapter 43D Expedited Permitting Program. One of the criteria is that the zoning accommodate developments of 50,000 square feet or more of commercial and/or industrial build-out.

Current Status: None of the Island towns utilize *Priority Development Site Designation*, nor does the MVC.

Stakeholder Comments: Stakeholders who expressed interest in this technique recognized that more comprehensive planning would have to be done to support this measure. With this in mind, several stakeholders expressed skepticism that any such planning could be done in the absence of professional town planning staff or that, perhaps, a significant effort on the part of the MVC might be necessary to provide support for same.

Applicability: As the Commonwealth's 50,000 square foot minimum threshold applies to an overall project with potentially many buildings on multiple parcels, it is conceivable but not likely that it might have some limited application on the Vineyard. With the foregoing in mind, this technique could be examined if and when the Island Plan and/or town plans identify potential development sites of this magnitude.

26. Pre-Permitting of Selected Sites

Description: This would involve taking some of the sites identified in Best Practice 24, and pre-approving certain types of development. This would involve conducting an in-depth assessment of a particular parcel or other clearly defined area, establishing the appropriate scope of development, identifying what zoning relief or other regulatory review would be required, outlining a timeframe for review, determining necessary mitigation, and addressing any other concerns that may result from the development of the subject property. A town could even modify the zoning and making other regulatory changes to allow for the preferred type of development as of right, possibly with *Site Plan Review*. As with the previous two best practices, the *Pre-Permitting of Selected Sites* relies heavily on the existence of strategic planning that identifies the types and locations of desired growth and addresses infrastructure needs, including but not limited to water and sewer needs, transportation concerns, and other issues of potential impact.

Current Status: The *Pre-Permitting of Selected Sites* is not a technique presently in use on Martha's Vineyard, either at the town level or regionally.

Stakeholder Comments: This technique has not been the subject of MVC outreach to date.

Applicability: This technique could be used to help implement features of the Island Plan and/or town Master Plans, especially if it was concluded that it would be desirable to attract certain development to specific locations. This might involve zoning changes that would need Town Meeting approval. This has the potential to help towns encourage certain types of development, but requires a high level of advance detailed planning, uncommon on the Island. Combined with the high level of public concern about any development, this technique may be all the more difficult to implement.



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