



# St. Croix Environmental Association

A Chapter of the Virgin Islands Conservation Society

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## **RE: USVI zoning code assessment – comments and recommendations**

Dear Mr. Meck:

Thank you for the opportunity for input on your assessment of the Virgin Islands zoning code. The St. Croix Environmental Association (SEA) wishes to elaborate on a few points discussed during your interview with Board members Don Diddams and Jim Nealon. The comments below have been reviewed by our Board of Directors.

While there are many issues SEA could raise regarding planning and zoning code in the Virgin Islands, these comments focus on three key structural issues related to zoning in the Territory.

### **Environmental considerations and the role of CZM**

Steep slopes, salt ponds and other wetlands, a fringing coral reef system, a dry climate punctuated by heavy tropical downpours, and the existence of several threatened and endangered species on the islands makes the Virgin Islands' environment fragile and vulnerable to damage from inappropriate or insensitive development. The zoning code and the subdivision regulations provide relatively little guidance on environmental issues to the government or to property owners or developers.

The Coastal Zone Management process (CZM) mandated by federal law does provide guidance for those projects that are subject to the CZM process. However, the islands have been divided into a 2-tiered system, where projects in Tier 1 (closest to the shoreline) receive a full CZM review, while projects in Tier 2 receive little or no environmental oversight. Unfortunately, the boundary between Tier 1 and 2 is arbitrary (often the first inland road) and rarely reflects slopes, watersheds, proximity to guts or any other environmental factors. As a result, an inappropriate or insensitive development in Tier 2 can have an equally devastating effect on the coastal zone as a similar development in Tier 1, which would receive a more complete review.

For these reasons SEA offers the following recommendations;

- The arbitrary distinction between CZM Tier 1 and Tier 2 should be eliminated. Some distinction may be needed between major and minor review requirements to reduce the burden on CZM staff and commissioners (and the potential delay for property owners). If so, this distinction must not be arbitrary, but should be based on relevant factors such as the size of the proposed development (already a CZM distinction), the proposed use, and – most important -- on the physical characteristics of the land (slope, proximity to a gut, proximity to the coast, proximity to wetlands or other sensitive features, etc.).
- The CZM process should be kept separate from administration of the zoning code. Administration of a well-written zoning code can be relatively efficient and straightforward, with a fairly clear yes or no conclusion. In contrast, evaluation of environmental issues, such as is required by CZM, is more qualitative. One key benefit of the CZM process is that it allows for negotiation and modification of project plans to make an initially unacceptable proposal acceptable. This win-win potential of the environmental review process should not be compromised or lost by trying to shoe-horn it into zoning.

### **The need for comprehensive planning**

By their insular nature, the Virgin Islands have limited land, groundwater and other resources. However, the Territory has no plan, principles or agreed-upon guidelines to allocate those limited resources to meet the long-term economic, housing, recreation, open space and other needs of residents. Instead, too often the Territory seems to make zoning, land use, water appropriation and other development decisions on an ad hoc first-come first-served basis.

Without meaningful planning policies and principles as its foundation, a zoning code has little to ground it. Difficult land use and rezoning decisions become impossible to make on a rational, consistent basis, and the defense against claims of unfair taking is weakened. From the property owner's perspective, a practice of arbitrary re-zonings that are not grounded on clear planning principles offers little guidance as to what uses may be allowed in the future on their own or neighboring property.

SEA recommends that an ongoing comprehensive planning process (including opportunities for public input) be incorporated into a major revision of the zoning code. The goal of this planning process should be to define the planning principles and policies to guide zoning and other land use and development management decisions.

### **Professionalizing the process**

Planning, zoning and development decisions will always be somewhat political. However, unless they are also grounded on sound planning policies and principles, the political process can become arbitrary. The disadvantages of that are visible on the ground, and also translate as uncertainty for landowners and potential developers.

The Legislature and the Boards and Commissions involved in zoning and planning require expert advice -- in addition to public input -- for sound decision-making. SEA believes that expert advice

and input is often lacking – especially for legislative rezoning decisions. SEA recommends that the planning and rezoning process be adapted to assure decision-makers always receive the expert advice needed.

This may require additional staff, and a clearer internal process to assure that the Legislature, Commissions and Boards receive the professional advice they need. And it may require some professional standards for the appointed members of Boards and Commissions that deal exclusively with planning and development issues.

Finally, SEA urges you to include in your recommendations to the Department of Planning and Natural Resources (DPNR) that they include as many opportunities as possible for public input and participation in any redesign of the Virgin Islands zoning and planning process.

Thank you again for the opportunity to offer advice and comments. We look forward to seeing your report and recommendations.

Very truly yours,

A handwritten signature in black ink, appearing to read "Donald Diddams". The signature is fluid and cursive, with a long horizontal stroke at the end.

Donald Diddams  
Board Chair

Cc: Marya Morris, USVI code assessment consultant