

To: Land Use Planning Committee
Re: DRI 712 (Shearer Cottage Expansion)
Date: December 23, 2021

Please consider the following feedback by Applicant regarding possible conditions imposed by the MV Commission.

Year-round Operations

Possible condition:

Per email from Alex Elvin, dated December 20, 2021: "Because of the challenges with monitoring, it would still be preferable to install an 8 mg/L system with the inn open year-round. (The commission will need to discuss this at the deliberation.)"

Applicant feedback:

Applicant is strongly against this condition for the following reasons:

- Per email from Alex Elvin, dated December 10, 2021, the MVC staff "confirmed the lot area for the Shearer Cottage project (0.751 acres), and that the proposed 12mg IA system with 15 bedrooms and limit of 8 months of inn operation per year would meet the nitrogen limit for the property."
- Several expert consultants have opined (and periodic reporting may prove) that, based on the seasonal nature of the island's tourism, the proposed 12mg IA system may, in fact, meet or exceed MVC mitigation requirements *for year round operations*.
- Applicant has been advised that other MVC-approved projects have been granted similar limitations on operations, such that disparate treatment of Applicant would be arbitrary and punitive, and potentially expensive for Applicant.
- Applicant offered to provide state-prescribed, periodic testing reports to the MVC to confirm Applicant's nitrogen mitigation efforts are operating as expected. Applicant also acknowledged that, if nitrogen mitigation efforts fall short of expectations, additional efforts may be required such as further limitations on inn operations.
- The inn has never operated year-round. When the inn reopens, operations will be limited to the traditional six-month tourist season (May through October) and potentially certain other periods during the offseason (yet to be determined, but not more than eight months total per year).

Operating Eight Consecutive Months

Possible condition:

Per Alex Elvin in an email, dated December 20, 2021: "If the commission accepts the offer to be open 8 months a year, they will probably add that the months must be consecutive (April-November)."

Applicant feedback:

Applicant is strongly against this condition for the following reasons:

- None of the offseason months (November through April) are viable for daily operations. This is true for most inns and hotels, as well as many other businesses that cater to island tourism.
- Applicant intends to operate during the traditional six-month season, from the beginning of May to the end of October. Over time and based on experience, Applicants will determine if there are opportunities for limited operations on long weekends and/or holidays in the offseason, such as Thanksgiving, Christmas, MLK and Valentine's Day.
- The additional two months of capacity afforded by the 12mg IA system, as proposed by Applicant and confirmed by MVC staff, would become meaningless if the inn is forced to use that capacity during unproductive periods.
- Any MVC condition that effectively imposes daily operations during any month in the offseason would deprive the Applicant of legitimate business opportunities without an overriding regulatory justification.

Landscape Plan

Possible condition:

Per Alex Elvin in an email, dated December 20, 2021: "A final landscape plan for the properties shall be submitted to the LUPC for review and approval prior to receipt of a building permit."

Applicant feedback:

Applicant is strongly against this condition, as such a condition is duplicative of Oak Bluffs' local permit process and could lead to an unnecessary delay in Applicant's renovation project. As a general matter, Applicant is willing to instruct landscape architect, Kris Horiuchi of Horiuchi & Solien, to follow applicable MVC guidelines with regard to native, low-maintenance, strongly rooted, drought-tolerant and non-invasive species. There may be existing plants on the property that are non-native and non-invasive, but carry significant sentimental value to Applicant.