


From: Robert Sawyer robert@sawyerrealtygroup.com 
Subject: 3 Uncas Avenue, Oak Bluffs
Date: November 1, 2023 at 4:10 PM
To: Rich Saltzberg saltzberg@mvcommission.org
Cc: Mike Sawyer mike@sawyerrealtygroup.com, Jay Talerman jay@mtclawyers.com

RS

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Hi Rich,

Please forgive my lack of response to your email of 10/16/23. I have been recovering following a sojourn at Martha's Vineyard Hospital with a major Pneumonia..

First, please confirm specifically when you advised us in writing of the LUPC meeting of 10/16/23.

The following is a complete response to every item referenced in your letter to us dated 10/31/23. Based upon these responses, we look forward to meeting with the LUPC on 11/13/23 and then proceeding to full Commission hearing 11/16/23. Furthermore, while the below responses remain unchanged from prior responses that we have supplied, we hope they are instructive.

1. PLAN B : We have no Plan B for the subject property. Its highest and best use is as a site of much needed affordable housing. If we do not receive approvals in due course, as prescribed under the Commonwealth's affordable housing statute, the building will simply remain boarded up. It would have been preposterous to us five years ago when we acquired this dilapidated building that we would have so much difficulty to demolish and build affordable housing that this community desperately requires.

2. WATER INTRUSION: We have no evidence of present water intrusion into the building. If you have contrary information, please provide us to it. Of course, if the Property remains undeveloped, it is possible that it may become vulnerable to the elements

3. JOHN LOLLEY, STRUCTURAL ENGINEER: To the extent that that there are inconsistencies in the dates in Mr. Lolley's report, we believe that they are purely inadvertent. Focusing on such immaterial inconsistencies does not change the overall purpose and conclusions of his report – that the building is simply unsalvageable. From our perspective Mr. Lolley was clearly the most credentialed structural engineer on Martha's Vineyard and we implore you to focus on his primary conclusions.

4. SITE PLAN: We have previously and on several occasions provided you a site plan, elevations and more on our proposed eight workforce dwelling units. We will not be expending any more funds for any reason on this project until demolition is assured and we know we can proceed. FYI, we have been supporting this property financially for five years with no income. The outgo of expenses other than continued re taxes and insurance has ceased.

5. RENT OR OWN: As we have repeatedly advised both verbally and in writing this will be a rental project. Additionally, our Project Eligibility letter issued by our subsidizing agency in support of the development of this affordable housing requires this to be rental housing. Furthermore, given the huge increases in both our costs and proposed development costs over five years, condominium is just not financially feasible.

6. UNIT SALES: See #5 above – we are not selling units.

7. WORKFORCE HOUSING: As you know, there exists no universal definition of “workforce housing.” However, it is generally meant to be housing that is, in some manner, earmarked for working folks within the community. Given the nature of the development, we believe that the market for these small rental units will naturally be working islanders. We would be pleased to discuss a means by which initial rentals will be marketed to island workers but cannot agree to perpetual restrictions in this regard. Also, we might consider rentals for year-round housing for seniors.

8. TITLE: 5: You are mistaken.. There is no obligation to comply with Title 5 for an unoccupied property. Further, we intend to tie in the new development with Town sewer, the permits for which will be granted by the Oak Bluffs Zoning Board of Appeals under c. 40B.

9. OAK BLUFFSWASTEWATER: See response #8 to prior question. Assuming the availability of capacity for these eight units of affordable housing, the ZBA will grant approvals. To that end, we expect that there will be a discussion of sewer infrastructure and capacity during the 40B hearing before the ZBA. We encourage you to speak with our counsel Jason Talerman, who has substantial 40B experience and can explain this issue.

10. NITROGEN: See Sections 8 and 9 above. We are prepared to discuss this matter during the ZBA hearing. While local requirements relating to sewer matters are waivable under c. 40B, we expect to demonstrate that this small affordable housing project will not result in adverse nitrogen loading.

11. 21E: As you have been previously advised, by no known criteria does this site warrant any environmental review under M.G.L. c. 21E. To the extent that compliance with any State law regarding contamination applies, we will comply with those requirements, as we must.

12. SPRINKLER SYSTEM:

Under M. G. L. c. 148 § 26G it appears sprinklers are not required for this project. We hasten to add that we have always complied with building codes in all our properties and will always continue to do so.

13. PROPOSED SITE PAN: We are once again attaching same,

14: APPLICATION FEES: Please provide us a new invoice breaking out and identifying all charges. It is our understanding the DRI fee is \$1,050 as voted by the Commission, What specifically are all the other proposed charges?

In an email from you dated October 13, 2023 you stated “ *Authority for third party reports can be found in the most recent iteration of the Commission’s DRI procedures which is located on the Commission website*”. We checked this resource and Section 4.2 of MVC DRI Procedures states “ *A cost estimate will be provided to the Applicant before the Commission proceeds to retain any outside consultants*”. This was not done. Nor are we aware of any provision of the MVC Act that allows the MVC to shift consulting fees to applicants. The MVC is not entitled to use the provisions of G.L. c. 44, s. 53G.

Further, in your email of October 13, 2023 you stated “ *Some of the primary reasons for an engineering report are as follows: (a) to inform the Commission of the structural condition of the dwelling proposed for demolition. (b) to corroborate facts, data, and findings in the engineer’s report submitted to the Commission by the Applicant.* “ While we appreciate the need to provide assurances, it seems absurd to require peer review oversight of a licensed structural engineer by a source not so licensed. Regarding the condition of the building, please advise if you personally would like to view and inspect the premises. Its condition is

please advise if you personally would like to view and inspect the premises. Its condition is plainly beyond repair and we see no need for another round of review.

Please confirm receipt of this email.

Thank you.

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