

12/19/22

Stone Bank Condos Possible compliance issues

Applicant responses 12/21/22

Staff responses 12/28/22

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1. Buildings D1 and D2 were constructed with solid concrete walls along the sides of the parking levels facing the town parking lot. This was not specifically indicated in the plans approved by the MVC, and was not mentioned by the applicant, but was indicated in the plans later approved by the building department. The applicant has put up a wooden fence in front of building D2 to conceal the concrete. 

Plans approved by MVC are preliminary drawings. The time and expense of providing full working drawings for a project trying to obtain discretionary approvals are prohibitive and are never provided under such circumstances. During the working drawing process changes are inevitable for various reasons ranging from structural issues to the realities that surface with more detailed drawings or to simply make situations more functional.

DRI applicants are not permitted to develop their property beyond what is shown in the plans approved by the MVC. Development that substantially differs from the plans requires referral to the MVC as a modification and may be handled either with a modification review by the LUPC and MVC; or by issuance of a Certificate of No Effect from the Executive Director, providing no commissioner objects.

We argue strongly that (1) the preliminary approved drawing is not definitive on this question and that (2) whether the wall is solid has no effect on the public good.

Buildings D-1 and D-2 are elevated. Solid walls in some areas are necessary to provide shear resistance to hurricane wind forces. Building D-1 is built as shown in the preliminary. The wall of Building D-2 facing the parking lot is not shown definitively in the preliminary but during the structural design phase this became a solid wall. The fencing was not added to hide this wall but to provide security and privacy for the entry to the residential unit in D-2. The fencing will eventually extend toward the harbor to

secure the property from vagrants. Gates will allow residents to enter. Also there will be trellises on the side of D-2 to soften the largely windowless facades.

In regard to the fence, please note that the MVC approval indicates that the project will preserve public access to the portion of the property with beach frontage.

True, we are giving the public the right to pass along our beach to get from the ferry beach to Owen Park. To be clear this does not include the right to use the beach, only to cross it. This should be distinguished from the vehicular route past the bollard which, if granted by the Steamship Authority, will be private.

2. The approved site plans were not all drawn to scale. However, buildings E and F appear to be closer to Union Street than represented in the plans.

They may appear to be closer but this is because the sidewalk on Union Street is actually on Stone Bank property.

Please clarify.

Please see the attached stamped and signed condominium site plan. This accurately shows the as-built locations of the buildings. The Union Street sidewalk is on the Stone Bank property.

3. Building E (proposed restaurant kitchen) was built with a second-floor deck that runs the length of the east elevation, while the approved plans showed only a partial deck.

Yes, the deck was extended 5' to provide cover for the walkway into the bathrooms for the restaurant. See comments under #1 above.

3. The applicant provided testimony to the MVC that he would work with the town and VTA to ensure access to the Stam property to the north, but the access way is still blocked by a VTA bollard and plantings. The fire department stated in June that it would like the bollard to be removed (or replaced with a removable version) and the plantings to be removed to allow for emergency access to the Stam property and two others that are currently hard to access from Main St.

The access in question is over Steamship property. As Mr Stam testified at the recent hearing we have worked to gain access for Mr Stam and others, albeit unsuccessfully so far. These efforts continue but the matter is not under the control of the Town or any one individual.

4. The most recent modification, for the elimination of unit R6, addition of a balcony, and revised rooftop solar plan (674-M4), was approved except for the solar plan, which is still pending. Absent this approval, the applicant has not complied with condition 5.1, which was required prior to a building permit. (The building permit had been issued prematurely after the applicant told the building department that the THC had signed off on the project, but the THC review still required LUPC approval.)

Condition 5.1 says, and I quote, "Subject to Tisbury Historic Commission Approval, solar panels shall be installed on the south facing roofs of Buildings B and D-1."

The THC gave its unequivocal response in a letter dated February 7, 2022 and again I quote, "THC will not recommend rooftop solar arrays for his project based on pre-existing historic roofs and the pitch of new construction roofs not being conducive to such panels. We also believe the addition of solar panels would negatively impact the unique design of this compound."

MVC deferred to THC in this matter and THC spoke clearly.

Please refer to the [3/16/22 LUPC approval letter](#) regarding the THC recommendations, and the [6/29/22 MVC approval letter](#) regarding DRI 674-M4 (Stone Bank Condo Modifications), which explain the process in more detail.

Regardless of the various arguments MVC might have since made, this all starts with Condition 5.1, which is totally unambiguous. Inasmuch as the decision as drafted by MVC is the controlling document, MVC should have to live with it as written. The same obligation surely applies to the applicant as well.

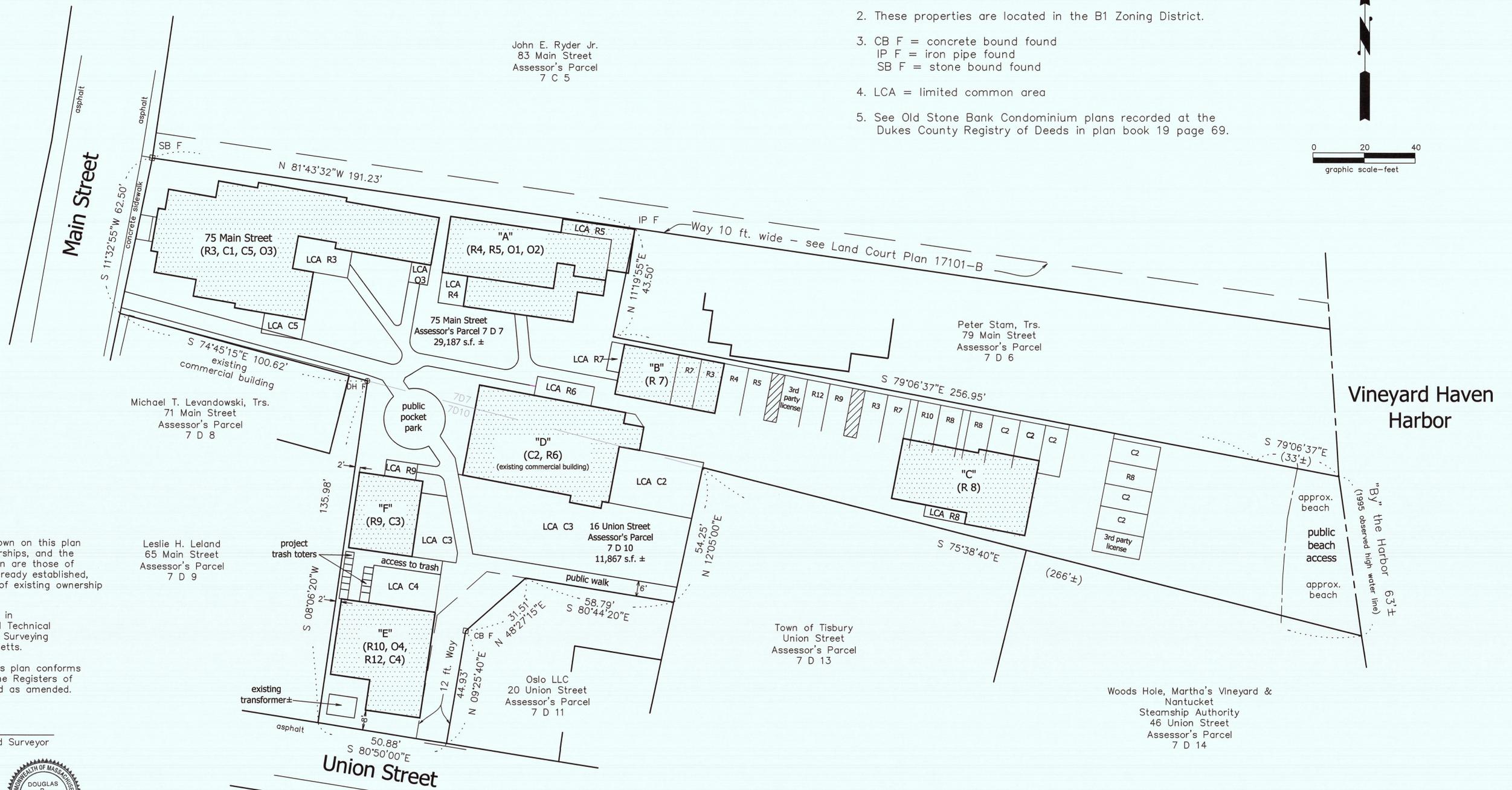
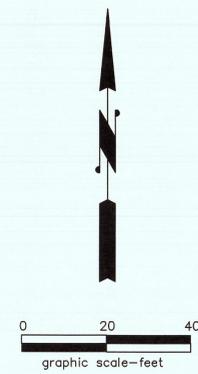
5. An existing transformer box had been located next to building E (behind building F on Union Street), but was relocated to the edge of the sidewalk on Union St. The fire chief explained this was partly because the doors wouldn't have been able to open given the

location of building E as approved.

There was always a transformer on Union Street next to Building E. It has been replaced with a larger capacity one by Eversource in essentially the same location as before in order to provide the power required for the Stone Bank Project.

The transformer located behind Building F was ostensibly on 71 Main Street property, but it encroached onto Stone Bank property and it relied on our property for access. Eversource did not have an easement for either of these, and we required Eversource to remove it. It is not correct to say it was relocated; it was simply removed.

- Notes:
1. This plan was prepared by compiling past survey work performed on this property by Schofield, Barbini & Hoehn Inc. and with current field checking.
 2. These properties are located in the B1 Zoning District.
 3. CB F = concrete bound found
IP F = iron pipe found
SB F = stone bound found
 4. LCA = limited common area
 5. See Old Stone Bank Condominium plans recorded at the Dukes County Registry of Deeds in plan book 19 page 69.



I certify that the property lines shown on this plan are the lines dividing existing ownerships, and the lines of the streets and ways shown are those of public or private streets or ways already established, and that no new lines for division of existing ownership or for new ways are shown.

This survey and plan were prepared in accordance with the Procedural and Technical Standards for the Practice of Land Surveying in the Commonwealth of Massachusetts.

I certify that the preparation of this plan conforms with the rules and regulations of the Registers of Deeds effective January 1, 1976 and as amended.

Douglas R. Hoehn
Douglas R. Hoehn, Professional Land Surveyor

Date: December 6, 2021



Plan of Land in Tisbury, Mass.
Prepared For
Old Stone Bank Condominium
Scale: 1" = 20' December 6, 2021
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