

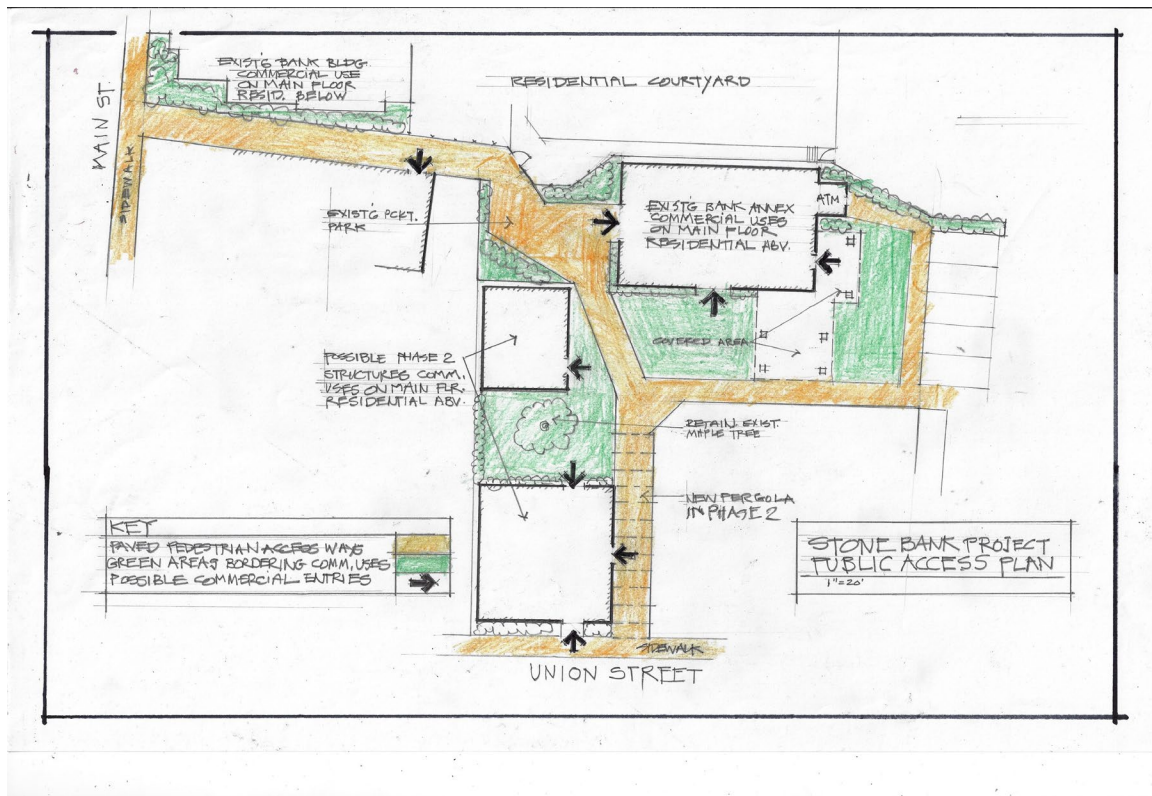
December 19, 2022

RE: Taqueria

Adam & Alex,

This follows your hearing on December 15. It appeared here were several misunderstandings and misrepresentations that confused the commissioners and showed the proposal in a bad light. Commissioners were hearing about this for the first time and, let's be honest, they probably hadn't read the material I had submitted. So they only knew what you and I were able to tell them. Please consider setting the record straight on several issues.

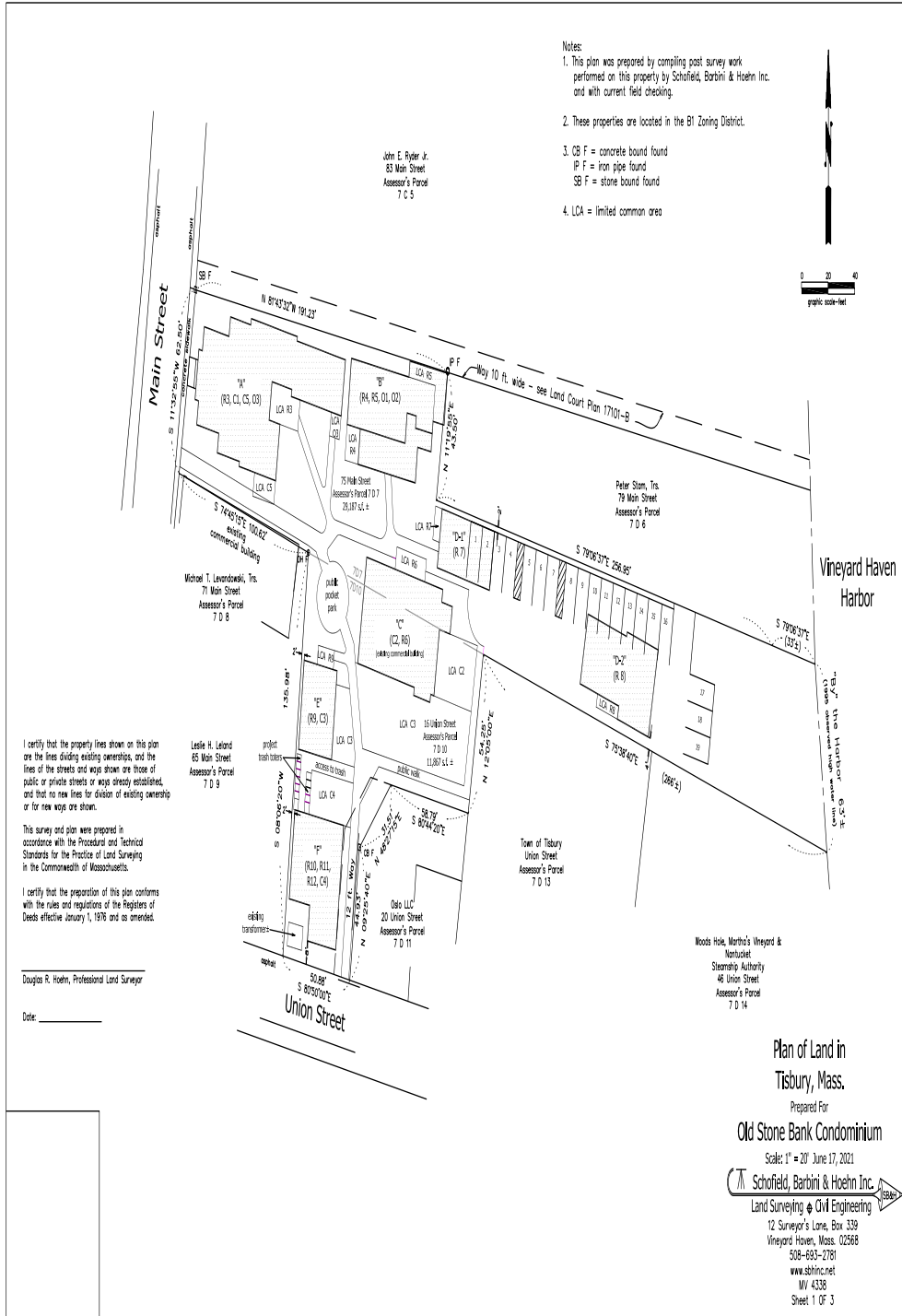
Public Access. Commissioners had the impression that before the Taqueria proposal came along the area was slated to be a public lawn. This is false. Below is the public access plan which is part of the decision when the project was approved.



There are a number of public areas in the project – walkways through the property connecting the Steamship lot, Main Street and Union Street, a landscaped pocket park with benches, bicycle stands, plus a smaller shaded area with benches. We are also granting a public easement to cross our private beach on the harbor. This project offers more public amenities than any other I know of.

However, the Taqueria site and other lawn areas were never designated as public spaces. They are clearly labeled as “Green Areas Bordering Commercial Uses” with potential

entrances to commercial spaces. The condominium site plan, also part of the approval, is shown below. It's crystal clear that these "lawn" areas are assigned as Limited Common Areas to the benefit of various Commercial Units.



If there is any doubt of the developer's intentions the condominium documents (also approved by MVC) contain the following provision:

(d) Certain Land Areas adjacent to Commercial Units. Certain land areas adjacent to commercial units, are limited common areas to such commercial units as designated on the Plan and, as such include the exclusive right to occupy and use the same for all commercial purposes. For clarity, Unit C3 may use the limited common areas designated on the Plan as "LCA C3" as a commercial dining area, without approval by the Condominium Trustees, or such other commercial use which may be allowed by applicable law and the Condominium documents.

I think in fairness the Commissioners should be told in no uncertain terms that the project did not "lose" a lawn; these areas were always going to host commercial activity.

Compliance Issues. The commissioners were lead to believe that there are numerous compliance issues at the project. This wasn't a fair statement because the project has not been formally accused of non-compliance, let alone cited.

Alex, you also told commissioners that the parking lot didn't seem to work, which is totally false. You might want to ask me to show you how it works before casting doubt in front of Commissioners. You told them that a bollard in the steamship parking lot blocked access to the property which again is false. There is no entrance to the project at that location; as the Stams testified they would like one there, that's all. The degree of attention focused on this was out of proportion to the facts and, moreover, had nothing to do with the Taqueria.

Sewer Flow. This is confusing, I agree. However in an email from the sewer department on August 6, 2021 it was explained. In connection with the Taqueria they allotted us an additional 1400 gpd (70 seats @ 20 gpd) but after subtracting some previously allotted flow that wasn't going to be used because of a reduction in the number of bedrooms in the project the actual new flow needed was only 1176 gpd. This was misconstrued to say that the Taqueria was allotted 1176 gpd when in fact it was allotted 1400 gpd.

Given that this is a Town issue and that Jared Meader has clearly stated that the local sewer department is comfortable with it I don't see why commissioners need to be dragged into the weeds. It only serves to distract and confuse.

Restaurant Impacts. This is a low impact restaurant in almost every way – traffic, water use, plastic waste, trash, food waste. None of this was mentioned in the presentation.

History. For all the Commissioners know we might have submitted this application a month ago. Don't you think in fairness they should have been told that this application is over a year old and that MVC missed its statutory deadline to schedule a hearing, and that I (graciously, I thought) did not push back on the oversight? Don't you think they should have been told that we were delayed 6 months because the original traffic scope

set by MVC would have cost \$40,000, and it took that long to get a more reasonable scope and to have it executed? Don't you think they should have been told that we were delayed another 4 months because of a storm water peer review occasioned only by unrelated buildings on Main Street improperly sending huge amounts of storm water onto our property? These things were not of our making, yet caused the loss of an entire season for the Taqueria. If this continues we will miss next season too. In my view commissioners should be made aware of these things -- they might feel just a little sense of urgency and act to move things along.

Sam

**From:** samdunn@rcn.com <samdunn@rcn.com>  
**Sent:** Friday, December 23, 2022 5:57 PM  
**To:** Alex Elvin  
**Cc:** Adam Turner; Patrick Lyons  
**Subject:** Re: Stone Bank restaurant and compliance review

**From:** "Alex Elvin" <elvin@mvcommission.org>  
**To:** "Sam Dunn" <samdunn@rcn.com>  
**Cc:** "Adam Turner" <turner@mvcommission.org>, "Patrick Lyons" <ptl@lyonsgroup.com>  
**Sent:** Thursday, December 22, 2022 2:17:19 PM  
**Subject:** RE: Stone Bank restaurant and compliance review

Hi Sam,

Here are my initial comments on your memo from Dec. 19: **Alex, all I am asking is that you present the project accurately and completely -- showing both sides of the issues. What you say is crucial because we cannot rely on commissioners to read the material.**

#### Lawn area

The staff notes and presentation clearly state that the lawn area was designated as an LCA for building E. **That's apparently not what commissioners thought.** However, we can clarify that this was not intended as public space. **That would be helpful, but the real issue is not if but when. Commissioners thought using the area for restaurant seating is part of the current application but that decision was made at the time of initial approval of the overall project.**

#### Compliance issues

These will be worked out by the LUPC and potentially the compliance committee, as I explained in my email on Dec. 20. **The point is your memo is misleading, either by omission or by factual misstatement -- regarding the solar, the steamship entrance, and the transformer. I don't want to be left having to correct what you say because it unnecessarily confuses the commissioners.**

#### Sewer flow

We have asked Jared Meader to clarify the assumptions that went into the wastewater approval. **Fair enough.**

#### History

Both of the peer reviews are covered in the staff notes. The traffic matter was not a peer review, but a routine traffic study run amok. We both know that "covering them in staff notes" is near useless because they don't get read. It's the verbal presentation that counts. My understanding is that this process took so long in part because the requested documents were not available. Alex, please understand. The staff presented a \$40,000 traffic scope, which was massive overkill for this project and took six months to correct. The planning board gave their final sign-off on the stormwater review on Nov. 2, and we scheduled the LUPC meeting for Nov. 14. The hearing was then scheduled for the next available date in December. All true, but the problem was caused by buildings on Main Street, and was not of our making. Why should commissioners not be made aware of extenuating circumstances affecting the applicant?

Please note that if an applicant does not agree to waive the standard timeframes for review, then the alternative may be for the commission to procedurally deny the project, in which case it would need to be resubmitted and advertised. Surely not six months after the fact. What you are saying is that there are no procedural constraints on staff at all. You fail to hold a hearing and if we don't agree we get punished by being denied? That's absolutely Kafkaesque!

Alex

**Alex Elvin**

Martha's Vineyard Commission  
Development of Regional Impact (DRI) Coordinator  
33 New York Avenue / PO Box 1447  
Oak Bluffs, MA, 02557-1447  
Direct: 508 693-3453 x118  
Cell: 774-563-5363  
[elvin@mvcommission.org](mailto:elvin@mvcommission.org)

Statement of Confidentiality

The contents of this e-mail message and any attachments are confidential and are intended solely for the addressee. The information may also be legally privileged. This transmission is sent in trust, and the sole purpose of delivery to the intended recipient. If you have received this transmission in error, any use, reproduction or dissemination of this transmission is strictly prohibited. If you are not the intended recipient, please immediately notify the sender by reply e-mail or at 508.693.3453 and delete this message and its attachments, if any.

