

February 12, 2018

Submitted by Alan Robillard.

Re: Unresolved Questions - Lagoon Ridge Development (LRD)

I have learned that comments from the public are still welcomed by the Planning Board (PB). I write this note to express my concern that certain questions which have been placed before the PB may go unanswered before the vote.

### **Unresolved Questions**

1- LRD has known of the MVC conditions for almost two years. The MVC ordered that there must be a bond in the event the Shared Septic System fails. The bond will be used to put individual septic systems on each lot. However, LRD's plan does not designate any reserve space on each lot of Clusters B and C. Will the individual septic systems encroach on what is true open space? Will there be room to maneuver heavy equipment once houses are built?

2- Will the Planning Board accept the arrangement of varying sized, isolated areas of land to be used as open space? The Flexible Development bylaw at 7.3.12 calls for "contiguous open space". I have attached a marked up plan showing the disjointed effect of the open space.

Please see the attachments... The red colored dots call your attention to the discreet pieces of land that are portions of lots that people will buy and pay taxes for, while in the theory of LRD, these lands will also be available to others for recreational purposes. It becomes obvious that the segmented pieces are not contiguous or even useable as planned given that they are in people's yards. It is also noted that the areas depicted as open space will be considerably smaller if the logic of the Town Counsel prevails.

3- Will the Planning Board explain why the spirit of the bylaw is not violated by these types of small, irregularly shaped plots of land? When the bits and pieces are considered individually, they have limited value for the use as stated in the Bylaw. However, in totality, they only serve to increase the number of bonus lots claimed by the applicant.

4- Will future owners of these lots in Clusters A and B understand that their neighbors and the public will have access to walk in their front, back and side yards?

5- Will the Planning Board apply the reasoning used by Town Counsel when addressing the classification of open space areas outside of the development envelopes on Clusters A and B? In essence, no "double dipping",....the land can't be both a setback area and open space at the same time, nor can it be held in reserve for a new septic system.

6- Will the Planning Board accept 25 feet as the setback distance in Clusters A and B as claimed by LRD? The setbacks in this zone of Oak Bluffs and in abutting properties are 50 feet, not the 25 feet referenced in the Covenants. If 25 feet is accepted, it will adversely affect current and future abutters.

7. Will the Planning Board require as specified in the Flexible Development Bylaw that a 50 foot buffer be present around the development? This will cause the plan to be redrawn. This requirement is obviously written to protect abutters.

8. Will the Planning Board determine if it is appropriate that the applicant will not form the Lagoon Ridge Association until after all of the lots have been sold or transferred? It is possible that some lots will take several years or more to sell. ...see Covenants, page 3, "The Association".

9. Do recreation uses of open space as designated by the bylaw take place on land areas that are not defined? Regardless of the Town's Counsel opinion about "double dipping", how can any non-development envelope land in Clusters A and B be counted as "Open Space" until it is sold, since the new owner has the right according to the Covenants under the heading "Use of Residential Lots" on page 6, to adjust the area where the development envelope will be located? In essence, the open space is in flux until all lots are sold.

10. How will the Planning Board reconcile the fact that the lot areas to be placed under a conservation restriction are nebulous areas with regard to their shape and location until the lots are sold? Does the Town Counsel understand this provision of the covenants? How can areas of space that do not have a specific physical location be counted towards the 40% requirement? The 40% requirement may never be filled, yet the applicant will derive the benefits ahead of time.

11. Will the Planning Board recalculate the areas previously counted as open space to determine if the LRD satisfies the 40% rule of the Flexible Development Bylaw? Has an itemized list of the areas showing square footage of "Open Space" been completed? Such a list is necessary, because it is now known that certain areas thought to be undisturbed will be clear-cut thus changing the amount of open space. Examples are: the emergency road, the shared septic plant and drain fields, as well as several other areas questioned at the meeting. The area of open space will also be lessened by the no "double dipping" rule and the application of a buffer around the development.

12- Will the Planning Board demand as agreed by the applicant and mandated by the MVC that a 10 foot wide easement be made for the existing path on the back of Cluster C which leads from

the Bar Trail Road to Barnes Road? This trail has been in existence for many years and is currently used. It appears the applicant is now denying its existence.

13- Will the Planning Board demand that an engineering plan be drawn for Double Ox Rd. where it joins Barnes Road? The plan does not appear on the present drawings.

14- Will the Planning Board require and approve a Succession Plan insuring that LRD is not left in a state of limbo at some point in the future and require a performance bond that goes beyond the issue of the Shared Septic System?

### **Attachments Follows:**

# Open Space

preserved open space = 11.09 acres

open space with deed restriction = 8.76 acres

Open Space Total = 19.85 acres 62%

Clusters B and C



