

2-15-18

Submitted by Alan Robillard

Re: **Lagoon Ridge Development Letter Dated, 2-14-18 Regarding Phased Development**

Excerpt from LDR Letter, 2-14-2018

Introduction:

In the Board discussion at the Public Hearing on February 8th, following the public testimony, board member Brian Packish stated his opinion that “phased development” should be required as a condition in approving the Lagoon Ridge Form C Plan.

It was the first time that such restrictions have been proposed, to the best of our recollection, either by Oak Bluffs officials or by the staff or Commissioners of the MVC. We are not aware of any such requirement in the Oak Bluffs Zoning Bylaw.

Comment: LRD was aware of a Phasing Plan requirement as set out by MVC in 2016... See excerpt below from the MVC

Excerpt From MVC's Conditions, June, 2016

2 Phasing and Construction

- 2.1 As offered by the Applicant, construction noise will be limited to 7 AM to 7 PM.
- 2.2 As offered by the Applicant, roadways will be modified as needed to save “mother trees”.
- 2.3 The Applicant shall submit a phasing plan to the MVC Land Use Planning Committee for review and approval prior to the issuance of any building permit. The Phased Development Plan shall include when lots and units will be developed. The Phased Development Plan shall demonstrate that mechanisms are in place to meet both MVC Policies and town Zoning Requirements concerning nitrogen loading limits, affordable housing, open space and all other conditions and offers related to this project.

Excerpt From LRD's Letter, 2-14-2018

The Amphidrome system:

Mr. Packish, in presenting his opinion that phased development might be advisable, quoted Tim Santos, an engineer at Holmes and McGrath, as saying that the Amphidrome system we have been permitted to install is very flexible and adaptable to slower flows. That, he said, would seem to allow staged development, even though the applicant will carry a heavy economic burden. (The costs for effluent sampling, testing, monitoring, and paying local staff is borne mainly by the Danielson family until over half the homes are built and the Homeowners' Association is set up and functioning.) While it is true that fine-tuning allows lower flows to be treated successfully, reliable operation of the system through the seasons is better if these systems are operating close to capacity.

Comment: MVC's condition #7.8 refers to 50% of the bedrooms on the shared system, not homes as described above...the number of bedrooms should be 50% of the 55 bedrooms based on the septic system design information which does not include the added Community House's bedrooms. It is pointed out again that the number of planned bedrooms of 55 exceeds the 52 bedrooms designated by the MVC.

Comment: The Lagoon Ridge Covenants on page 3 under the heading "The Association" clearly state that the association will not be set up until all of the lots are sold or transferred, so it would seem that Mr. Danielson's financial commitment could extend far into the future.

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With the Amphidrome **Plus**, however, more bedrooms mean more efficiency and, as a result, on balance, will mean less total nitrogen starting its long journey to the pond.

Comment: Mr. Danielson has confirmed the argument made by critics that the Shared System will have less efficiency at low input rates. This means high levels of nitrogen could be entering the Lagoon for long periods. High flow rates with lower nitrogen cannot be reliably predicted because of the seasonal nature of the economy of the Island.

Other statements in LRD's letter regarding costs also confirm critic's arguments about the high maintenance costs associated with a shared alternative septic system.

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expenditures for municipal water became a necessity. In addition to all these expenses, we are providing 2 lots for 3 dwellings to meet the requirement for affordable housing. The Applicant

Comment: It appears from this comment that LRD is still maintaining that it will *give lots, but not build houses* despite the wording of the Flexible Development Bylaw. The law seems clear and regardless of the involvement of Habitat for Humanity, LRD is apparently responsible for the costs of the 3 dwellings on the 2 lots.

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Summary and Proposal:

In light of the above, the Applicant proposes that the seven lots with the affordable and senior housing be allowed building permits once the lots are released from the Form F covenant after completion of the Lagoon Ridge infrastructure.

Comment: Earlier in the letter LRD complains that "... the applicant will carry a heavy economic burden." It is understandable that LRD wants their costs to be shared; however, LRD plans for the burden to be transferred to the elderly during the initial stages of development when the Septic System's costs will be the highest. Also, the MVC condition (6.3) exempts Affordable Housing owners from paying the fees of the maintenance of the Shared System unless a different arrangement can be made.