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September 5, 2007

Mr. John Wary
280 Island Ave
Long Island, ME 04050

Re: Spar Proposal to Develop a Multi Family Dwelling

Dear Mr. Wary:

The Chairs of the Long Island Planning Board and Board of Appeals have asked me to clarify the authorization process required to convert and develop the Spar property as a multi-family dwelling and to summarize the channels you must follow if you want to proceed to secure these approvals. The proposed conversion and development that I understand you are interested in pursuing is to convert the existing Spar building, currently comprised of the Post Office, the former Spar Restaurant and an apartment unit, into a multi-family dwelling that will eventually be declared as a residential condominium development.

Your original application for a building permit to the Town CEO, Jim Nagle was denied for the reason that at the time of your application multi-family dwellings were not allowed as permitted or conditional uses in any zone on the Island. You appealed the CEO's refusal to issue the building permit to the BOA and I understand that the BOA did not grant your appeal. The Town, effective May 12, 2007, approved an amendment of the Land Use Ordinance to authorize multi-family dwellings as a conditional use in the I-B zone. The amendment authorized the multi-family use and established new lot size criteria for it. Multi-family Dwellings require a minimum lot area of 10,000 square feet for each bedroom and a minimum lot size of 60,000 square feet.

In addition to these amendments authorizing the multi-family dwelling use, the Maine Department of Environmental Protection (DEP), in its capacity as administrator of statewide

minimum shoreland zoning standards, has provided comments on the allowance of multi-family dwellings in shoreland areas. The DEP Shoreland Administrator, Mike Morse, advised that the Department finds the multi-family use acceptable as a conditional use for lots located within the shoreland zone. However, the DEP has also directed that a minimum lot frontage of 150 feet of shore frontage, as required in the Town's Shoreland Ordinance at section 4.17(M) for residential development adjacent to tidal areas, applies to each unit in a proposed multi-family dwelling.

Assuming you and your advisors determine your plans can fulfill these requirements, to permit the proposed development will require several applications and approvals. Article 10 of the Land Use Ordinance (the "Ordinance") governs the Site Plan Review process. Section 10.2 (E) of this Article requires Site Plan Review when there is a change of use and the total floor area of the proposed development exceeds 750 square feet.

The Planning Board administers the Site Plan Review process. Applications for Site Plan Review necessarily include a significant amount of detail and must, unless the Planning Board waives the applications submissions as being unnecessary for the Board's review, must include all of the materials, submissions and information required in Section 10.3(D) and Section 10.4 of the Ordinance.

Since you are seeking to develop more than three separate units, your proposal will also require Subdivision Review and approval under Article 11 of the Ordinance. Subdivision review take place contemporaneously with a Site Plan Review application at the Planning Board. The requirements for the submittals for an application for subdivision approval are set out in detail in Article 11, Sections E and F, of the Ordinance. Where the information and submissions required are the same for the Site Plan and Subdivision reviews, applicants can generally request the Planning Board to refer to submissions and materials included in the Site Plan application (and vice versa). Section D of Article 11 authorizes pre-application meetings with the Planning Board to help applicants understand what submissions will be required.

Multi-family dwellings are permitted uses in the I-B Zone but only as conditional uses. The Board of Appeals (the "BOA") reviews and approves conditional use applications. As I understand it, you have provided certain submittals to the BOA in connection with your appeal of the CEO denial of your building permit application but have not to date provided a complete set of the required application materials for conditional use approval as required under Section 13.6(B) of the Ordinance. Applications for conditional use approvals require, among other things, a preliminary or final site plan as approved by the Planning Board.

The conditional use review process focuses on examining the potential impacts of the proposed conditional use on the public at large and on the pre-existing legal activities in the immediate vicinity of the proposed use. It would be very difficult for the BOA to make such determinations without first having the benefit of the Planning Board's completion, refinement and approval of the project under the Site Plan and Subdivision review procedures. The submission requirements for the Conditional Use approval process anticipates this same result by requiring the applicant to conditional use approval to submit a preliminary or final site plan approval as part of the application materials required.

Though you have made recent efforts to secure Planning and Board of Appeal approvals and provided certain submissions in connection with these proceedings, the consensus among the Board Chairs and Code Officer is that to proceed effectively with any application at this juncture that you should resubmit complete applications which include all of the required submissions, including plans and surveys sufficient to allow the reviewing bodies to verify the proposal meets all required setbacks and other bulk and space criteria. Since the review will include a determination if a proposed project conforms to the bulk, space and siting standards, it is essential that all plans and similar submissions are prepared or at least certified by individuals competent and qualified to attest to the accuracy of the information depicted.

It has also come the attention of the Town that there are potentially several other preliminary issues related to the Spar property that will also need to be considered and addressed in the context of any redevelopment of the property. Based on the Town's new mapping programs, it has come to the attention of the Code Enforcement Officer that the building on the Spar property may be sited so as to encroach on a Town street. It has also come to the attention of the Code Enforcement Officer that the existing apartment dwelling unit was never authorized or permitted. These issues will have to be addressed in due course and certainly before any further development takes place on the property.

Hopefully these remarks will be helpful to you in your planning and efforts regarding the Spar property.

Very truly yours,

Robert J. Crawford

RJC:jld

cc: Emily C. Jacobs, Chair, Planning Board
James Thibault, Chair Board of Appeals
Michael Floyd, Chairman Board of Selectmen
James Nagle, CEO
Lee Lowry, Esq.