

D R A F T

**TIVERTON PLANNING BOARD
MINUTES OF SPECIAL MEETING
April 16, 2015**

Chairman Stephen Hughes called the special meeting of the Tiverton Planning Board to order at 7:00 P.M. at the Tiverton High School Auditorium, 100 North Brayton Road. Members present were: Vice Chairman Stuart Hardy, Patricia Cote, Rosemary Eva, Susan Gill, Carol Guimond, Edward Campbell and David Saurette. Also in attendance were: the Planning Board's Clerk and Administrative Officer Kate Michaud and Town Planner Marc Rousseau. The Board's legal counsel Stephanie Federico was also present.

NOTE ON AGENDA: Items on the agenda may be taken out of order as needed. Public Hearing and Public Information Meeting comment periods have been closed by a vote of the Planning Board. Therefore, there can be no further comment by the applicant or the public. Consideration of any item on the agenda may include a vote or votes.

1. Carpionato Group, LLC, Applicant – 1414 Atwood Avenue – Johnston, RI 02919 – Amendments to the Comprehensive Community Plan Public Hearing (Closed) – Text Available at www.tiverton.ri.gov, Town Clerk's Office & Essex Library The Chairman noted that at the last meeting, held on March 24, 2015, a vote was taken to make a positive recommendation regarding amendments to the Comprehensive Community Plan. A draft written decision had been distributed for review and approval.

The Chairman noted that two (2) points of clarification remain. First, does the Board wish to delete the "Town Center" language currently found in Section 3.3 of the Plan? The Chairman opined that this section did not need to be deleted at this time in order for the Carpionato project to proceed. Ms. Eva stated that her recollection was that the consensus was to leave this language in the Plan and review it in the future as part of the full Comprehensive Community Plan update process. The Board members agreed by consensus. The Chairman then asked for clarification on the wording of the last sentence of the new text regarding "Mixed Use Development". Ms. Eva stated that it was correct as written. The Board members agreed by consensus. Ms. Eva reviewed typographical corrections to be made.

The Chairman noted that the amendments would be forwarded to the Town Council with an explanatory cover letter. Discussion ensued regarding whether or not Carpionato's original proposed amendments should be forwarded to the Town Council for reference. Ms. Eva expressed concern that this would be confusing.

Mr. Hardy made a motion to approve the draft written notice, with corrections as noted, to be sent to the Town Council. Ms. Gill seconded the motion. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Gill, Ms. Guimond, Mr. Campbell and Mr. Saurette voted in favor of the motion.

2. Carpionato Group, LLC, Applicant – 1414 Atwood Avenue – Johnston, RI 02919 – Master Plan Review – Public Informational Meeting (Closed) – Major Land Development – Request for Zoning Ordinance & Map Amendment – Recommendation to the Town Council – S/S Souza Road, N/S Route 24, E/S Main Road – R-40 Zoning District – Plat 110 / Lot 102 (Vacant), Plat 301 / Lot 220 (Vacant), Plat 301 / Lot 221 (1148 Main Road) – Tiverton Crossings – Mixed-Use Major Land Development – Phased – (Retail / Office / Residential / Hotel / Restaurant) – Time Clock = 5/11/2014 / Revised Master Plan Submitted 11/6/2014

A. Zoning Ordinance Amendment Request (Map & Text)
• **Recommendation to Town Council**

A memorandum dated 4/15/15 had been distributed by Ms. Michaud outlining the changes to the Zoning Ordinance text amendment based on the March 24, 2015 meeting discussion (see file). The discussion points outlined in the memorandum were discussed. Mr. Saurette opined that phasing should not be part of the Zoning Ordinance, since the Planning Board may not wish to allow for phasing. The Chairman suggested that tattoo

parlors should be added to the prohibited uses. Mr. Hardy stated that it should be clarified that only one exterior seasonal tent would be allowed. Discussion ensued. Mr. Hardy stated that he wanted to avoid multiple tents on the property generating a lot of noise. He suggested that a second category of tent could be added: special event tent.

Discussion ensued regarding the proposed pylon sign. A document containing examples of pylon signs had been distributed. Mr. Saurette stated that he had provided all of the examples except for the Chapel View sign, and that his examples were in the range of 325 to 350 square feet. The Chairman opined that 400 square feet seemed imposing and suggested that a 25% reduction, to 300 square feet, would be appropriate. Ms. Eva and Mr. Hardy supported the Chairman's suggestion. Ms. Gill stated that she wondered how high the cliff wall on Route 24 was and how visible the sign would be at that height. Ms. Cote opined that the Mansfield, Smithfield and Chapel View signs did not seem extraordinarily large or excessive. Ms. Guimond supported the Chairman. Ms. Gill stated that she would be ok with 400 square feet on the highway, but that she would support the change to 300 square feet.

The Board agreed by consensus to remove Section 10a., which stated that vehicular traffic must be integrated into the surrounding area. The Board discussed deleting Section 13b. through 13i. as these elements were addressed in the Development Standards and Guidelines. Ms. Eva expressed concern. Mr. Hardy suggested leaving the language in the ordinance to "add teeth". The Board agreed by consensus to leave this section in the ordinance.

The required findings of fact for a Zoning Ordinance were reviewed in detail, including the purposes of Zoning (see transcript and written decision notice). Mr. Hardy stated that he could not make positive findings with regard to development occurring on the Brito (Plat 301 / Lot 220) or Corr (Plat 301 / Lot 221) parcels. He specifically cited concerns regarding safety, historic preservation and environmental protection. He stated that he could make positive findings with regard to the McInnis parcel (Plat 110 / Lot 102). The Chairman noted that the Corr parcel would basically remain unchanged, with the house remaining in place. He opined that environmental concerns were premature, since the Preliminary Plan would address detailed engineering and environmental issues. Ms. Guimond asked Mr. Hardy to explain his environmental concerns. Mr. Hardy stated that he was concerned about the impacts on Main Road, especially with regard to noise and litter. He also expressed concern regarding traffic impacts. The Chairman stated that he would recommend a Master Plan condition prohibiting a Main Road entrance, with access to the development only via Route 24 and Souza Road. He stated that this would substantially reduce traffic impacts on Main Road and the historic properties would not be affected. Mr. Hardy stated that preservation of the historic character of the National Register Historic District went beyond maintaining buildings, and that the pastures and stone walls created the character of the area. He stated that Edward Sanderson had made it clear in his letter to the Planning Board that the purpose of the District is to maintain historic resources.

Ms. Gill stated that she did not share Mr. Hardy's thoughts on historic character. She stated that this was private land and that it was unutilized property. She noted that the developer would work with the stone walls. Ms. Guimond stated that she would not vote for a Main Road entrance, opining that it would be environmentally invasive and hazardous. The Chairman stated that the Brito property was zoned residential and could be developed as an R-40 residential subdivision by right. He stated that his concern was to limit the impact and maintain the historic structures.

Discussion ensued regarding each of the purposes of zoning. (See the Planning Board's written recommendation to the Town Council for a complete list.)

(1) *Promoting the public health, safety and general welfare.*

The Chairman noted that the proposed development would provide jobs and shopping opportunities, and that the review process would address any health and safety concerns. Mr. Hardy expressed concern regarding the safety of school children, referencing the letter received from Superintendent Rearick regarding bus stops. The

Chairman replied that the conditions of Master Plan approval would address that concern. Mr. Saurette noted that the Board evaluated information received and relied on expert testimony. He stated that school bus traffic would likely occur between 8:00 and 8:30 AM and between 2:00 and 3:00 PM. He stated that businesses would not open until 9:00 or 10:00 AM and that they would be busiest on weekends and at night when there would be no school buses.

(2) *Providing for a range of uses and intensities of use appropriate to the character of the city or town and reflecting current and expected future needs.*

The Chairman stated that jobs would be created on a site accessible by Route 24 and that the development would provide for a range of uses. Mr. Saurette agreed. He added that at the first meeting of the CPAC (Comprehensive Plan Advisory Committee) a majority of people present stated that Tiverton was lacking in commercial development.

(3) *Providing for orderly growth and development which recognizes:*

(i) *The goals and patterns of land use contained in the comprehensive plan of the city or town adopted pursuant to chapter 22.2 of this title;*

(ii) *The natural characteristics of the land, including its suitability for use based on soil characteristics, topography, and susceptibility to surface or groundwater pollution;*

(iii) *The values and dynamic nature of coastal and freshwater ponds, the shoreline, and freshwater and coastal wetlands;*

(iv) *The values of unique or valuable natural resources and features;*

(v) *The availability and capacity of existing and planned public and/or private services and facilities;*

(vi) *The need to shape and balance urban and rural development; and*

(vii) *The use of innovative development regulations and techniques.*

The Chairman stated that these items would be addressed through the information already received and the information that would be received at future stages of review. Mr. Hardy stated that he could agree on the zoning language only, but not on the Master Plan. He added that he was concerned with preserving natural characteristics and features and that he was concerned about ledge removal. He stated that perhaps this issue was best addressed through the Master Plan.

(4) *Providing for the control, protection, and/or abatement of air, water, groundwater, and noise pollution, and soil erosion and sedimentation.*

The Chairman stated that nothing discussed regarding the Zoning Ordinance amendment would speak to this finding. Ms. Eva stated that she was concerned about water supply.

(5) *Providing for the protection of the natural, historic, cultural, and scenic character of the city or town or areas in the municipality.*

The Chairman stated that the Development Standards and Guidelines would enable the historic character to be maintained. He added that the historic structure on Main Road (1148 Main Road) would be preserved.

(6) *Providing for the preservation and promotion of agricultural production, forest, silviculture, aquaculture, timber resources, and open space.*

Mr. Saurette stated that the lot coverage limits would be similar to elsewhere in Town, creating a consistent approach.

(7) *Providing for the protection of public investment in transportation, water, stormwater management systems, sewage treatment and disposal, schools, recreation, public facilities, open space, and other public requirements.*

The Board members found by consensus that this did not apply.

(8) *Promoting a balance of housing choices, for all income levels and groups, to assure the health, safety and welfare of all citizens and their rights to affordable, accessible, safe, and sanitary housing.*

Mr. Hardy stated that the language discussed tonight would not lead to a negative finding. He stated that he could make a positive finding on this point.

(9) *Providing opportunities for the establishment of low and moderate income housing.*

The Board found that the amended draft text would provide for this finding.

(10) *Promoting safety from fire, flood, and other natural or unnatural disasters.*

The Board found by consensus that this item did not apply.

(11) *Promoting a high level of quality in design in the development of private and public facilities.*

The Board members found that this was achieved through the Development Standards and Guidelines.

(12) *Promoting the implementation of the comprehensive plan of the city or town adopted pursuant to chapter 22.2 of this title.*

The Board found that through the amendments to the proposed draft this finding was achieved.

(13) *Providing for coordination of land uses with contiguous municipalities, other municipalities, the state, and other agencies, as appropriate, especially with regard to resources and facilities that extend beyond municipal boundaries or have a direct impact on that municipality.*

The Chairman noted that an underutilized sewer line would be utilized.

(14) *Providing for efficient review of development proposals, to clarify and expedite the zoning approval process.*

(15) *Providing for procedures for the administration of the zoning ordinance, including, but not limited to, variances, special-use permits, and, where adopted, procedures for modifications.*

(16) *Providing opportunities for reasonable accommodations in order to comply with the Rhode Island Fair Housing Practices Act, chapter 37 of title 34, the United States Fair Housing Amendments Act of 1988 (FHAA), the Rhode Island Civil Right of Persons with Disabilities Act, chapter 87 of title 42, and the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101 et seq.*

The Board members found that these three items did not apply.

Ms. Michaud then reviewed the sections of the Comprehensive Community Plan that were consistent with the proposed amendment. (See the written recommendation for a full listing and text.) She noted that these items were taken from discussion and from the report authored by Kelly Morris and submitted by the applicant. Ms. Gill stated that this was helpful, and that the proposed development contained elements discussed ten years ago as something that the Town was looking for.

The Chairman made a motion to make positive findings that the proposed amendments to zoning comport with the purposes of zoning and with the Comprehensive Community Plan. Ms. Gill seconded the motion. Ms. Eva asked when the Development Standards and Guidelines could be discussed. Ms. Federico stated that they were not specifically on the agenda for a vote, and that they should be left as draft at this point and taken up at a future meeting. Mr. Hardy stated that he had already made his statements about his concerns regarding the historic district, environmental issues and safety. Hearing no further discussion, the Chairman called for a vote. The motion passed 5-3. Mr. Hughes, Ms. Cote, Ms. Gill, Mr. Campbell and Mr. Saurette voted in favor of the motion.

The Chairman made a motion to request the Administrative Officer and Solicitor to draft a written notice for a formal vote at the next meeting. Ms. Cote seconded the motion. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Gill, Ms. Guimond, Mr. Campbell and Mr. Saurette voted in favor of the motion.

At this time (9:09 PM) the Chairman called for a recess. The meeting reconvened at 9:20 PM.

B. Revised Master Plan Application

• Conditional Approval or Denial

A list of conditions that were discussed at the March 24 meeting was distributed by Ms. Michaud (see file). The Chairman stated that he had some additional conditions to propose.

1. Retail, and maintain to code standards, the historic structure located at 1148 Main Road.
2. Merge the three existing lots of record into a single lot of record through Administrative Subdivision.
3. Add more social / community space.

Mr. Saurette stated that the Board had received letters already from the water supplier, Police and Fire. The Chairman stated that initial letters had been received. He added that for water service, the Planning Board should require a demonstration that the supply is available. He noted that the purpose of the conditions was to let the developer know about the Planning Board's issues of concern. Mr. Saurette stated that he thought it was unlikely that the Fire Department would be able to bless the plan at the Planning Board level, as things could change. Ms. Federico stated that the conditions would be addressed prior to Final Plan approval. Ms. Eva stated that she was very concerned about water supply and that she felt that the Planning Board should require modeling. She also suggested that language should be added regarding access via the Fish Road interchange.

Ms. Eva noted that Land Development and Subdivision Regulations Section 23-51 required phasing at the Master Plan review stage. Ms. Federico stated that this requirement could be waived. The Chairman stated that the Board, at Master Plan, could require a mix of uses in each phase without defining the phases. Mr. Saurette asked if the Board could approve the plan without phasing. He stated that he was not in favor of phasing since it was difficult from a business perspective to predict the order of construction. Ms. Federico stated that she would be concerned with any decision not to allow phasing. The Chairman stated that his concern was that other developments in town had gone unfinished, with nothing in place to ensure that all aspects of the plan would be developed. He stated that he wanted to be sure that the project is approved as a mixed-use development and constructed as a mixed-use development; including residential, retail and office. Mr. Saurette stated that he would not want to see infrastructure improvements phases; both on site and off site. The Chairman stated that the plan submitted included infrastructure in Phase 1. Mr. Saurette stated that he would like to see off-site improvements also completed as part of Phase 1. Ms. Michaud noted that the applicant had

indicated that certain proposed traffic signals would not meet the warrants for installation as part of Phase 1, but that the developer had stated that they would install the conduit and bases for future installation of the signals when warranted.

Mr. Saurette stated that he did not agree with eliminating access via Main Road. He suggested that Main Road could be a right turn in only and right turn out only access. Ms. Gill stated that she felt that Main Road access was needed. She noted that the applicant might not be able to obtain State approval for access from the Route 24 side of the property. Ms. Guimond noted that she had already stated her opinion. Mr. Campbell stated that he felt that the Main Road access was needed. Mr. Hardy stated that he supported the Chair's proposed elimination of Main Road access. Ms. Cote and Ms. Eva also supported the Chairman. By consensus, the Board agreed to eliminate the Main Road access. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva and Ms. Guimond were in favor of elimination. Ms. Gill, Mr. Campbell and Mr. Saurette were in favor of retaining the Main Road access.

Mr. Hardy stated that there were some additional conditions that he would like to discuss. He stated that there was an issue that he had brought up on several occasions; the removal of ledge and earth to lower the elevation of the high point of the site. He noted that the application indicated that the high point with an elevation of 260' to 265' would be lowered by 30' to 35' to approximately 225' for an area containing several acres of land. He stated that there would be a lot of blasting and earth removal required. Mr. Hardy proposed that the existing elevations, as shown on the existing conditions plan, should be maintained, with no blasting allowed. He stated that the applicant would be allowed to remove earth and ledge for the foundations and engineered structures such as underground stormwater management. Mr. Hardy stated that his recommendation was based upon the Low Impact Design (LID) guidance materials issued by RIDEM (RI Department of Environmental Management) and CRMC (Coastal Resources Management Council). He stated that this guidance talks about the importance of avoiding the traditional development method of flattening a site, and instead encouraging developers to preserve the natural features of a site. He opined that the slope on the site is gradual enough to build upon and that he objected to lowering the elevation.

Mr. Hardy stated that impervious cover should be kept to a minimum and that pervious parking areas should be utilized. He stated that this, and a prohibition on blasting and removing natural features, was consistent with the Carpionato Group's vision as stated on their website, which references "preservation and enhancement of natural features". Mr. Hardy noted that an April 12, 2015 Providence Journal article discussed the difficulties in the south end of Attleboro at the Shops at Mayfair. He stated that blasting was discussed. Mr. Hardy read an excerpt of the article (see transcript). He stated that he was not saying that this would happen in Tiverton, but that he was still concerned.

Ms. Federico stated that her concern was that this is a very technical issue. She stated that the applicant would need to provide a study to be peer reviewed regarding the safety of proposed blasting. Mr. Hardy replied that his concerns were not with the engineering, but with consistency with LID principals. He stated that blasting should not be done if it could be avoided. He stated that he was sure that an engineer could be found who would say that it was acceptable from an engineering standpoint. He restated that he would like to get away from the traditional methods of development.

Ms. Federico expressed her concern, opining that this could be on the cusp of a taking. She recommended that the board allow experts to weigh in with regard to these issues.

Mr. Saurette stated that he disagreed with Mr. Hardy. He referenced the issue of hydrology and noted that the site already has a great differential in elevation. He opined that Mr. Hardy's proposal would prevent the applicant from using part of the site. He added that without grade changes, driveways would have excessive grades and would not be compliant with ADA (Americans with Disabilities Act) requirements. The Chairman agreed with Mr. Saurette and Ms. Federico, adding that the issue of blasting should be studied at Preliminary Plan. Mr. Hardy stated that he did not want to put the applicant through the expense. Ms. Eva stated that the Town has had problems in the past with blasting. She stated that she supported Mr. Hardy. Ms. Gill and Ms.

Cote stated that they supported Mr. Saurette. Ms. Guimond stated that she supported the Chairman. Mr. Campbell stated that he supported Mr. Saurette. Mr. Saurette stated that he was not opposed to further study. The Board agreed by consensus that blasting would be an issue for study at Preliminary Plan.

Ms. Cote inquired about the historic home located at 1148 Main Road, asking if the condition proposed to maintain it was what Carpionato wanted to do. The Chairman stated that the revised Master Plan application proposed that Carpionato would own the home and that it would remain in place.

The Chairman reviewed the required findings; Land Development and Subdivision Regulations Section 23-45 a. 1-5.

- (1) *The proposed development is consistent with the town comprehensive plan and/or has satisfactorily addressed the issues where there may be inconsistencies;*

The Chairman opined that the Comprehensive Community Plan amendment as recommended by the Planning Board would address this finding.

- (2) *The proposed development is in compliance with the standards and provisions of the town zoning ordinance;*

The Chairman opined that a Zoning Ordinance text and map amendment, as recommended by the Planning Board, would address this finding.

- (3) *There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval;*

The Chairman stated that a Final Plan had not been filed yet.

- (4) *The proposed development, will not result in the creation of individual lots/areas/parcels with such physical constraints to development that building on those lots/areas/parcels in accordance with the pertinent regulations and building standards would be impracticable, unless such lots/areas/parcels are identified as permanent open space or are to be permanently reserved for a public purpose on the approved recorded plan;*

The Chairman opined that this could be met with the conditions discussed, including the merger of the three lots of record.

- (5) *All proposed land developments and all subdivision lots have adequate and permanent physical access to a public street. Physical access by means of an easement across adjoining property or lot frontage on a public street without physical access from required street frontage shall not be considered in compliance with this requirement unless specifically provided for under these regulations (see article VIII rural residential developments).*

The Chairman stated that there was physical access to a public street.

Mr. Hughes made a motion to make positive findings. Mr. Saurette seconded the motion. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Gill, Ms. Guimond, Mr. Campbell and Mr. Saurette voted in favor of the motion.

Mr. Hughes made a motion to direct the Administrative Officer and Solicitor to draft a written decision notice for a Conditional Master Plan approval. Mr. Hardy seconded the motion. Discussion ensued. Mr. Hardy stated that he was concerned with the environmental impact finding not being addressed until Final Plan. He stated that there hasn't been much information received regarding air quality, exhaust and impact on endangered

species habitat in the Archer and Sin and Flesh Brook area. He asked if the Board could require a peer reviewed study by an environmental expert. He opined that Commonwealth was not an adequate peer reviewer for environmental issues. He stated that the Board had never reviewed a project this big and that a lot of impacts could be mitigated. Ms. Federico replied that the Board could require a peer review by an environmental engineer. The Chairman stated that this finding referred to Final Plan. Mr. Hardy stated that he would bring it up again at Preliminary Plan.

Mr. Saurette noted that twice Mr. Hardy had referred to Commonwealth Engineers and Consultants in a negative way, and that he disagreed with this characterization. Mr. Hardy opined that Commonwealth did not have traffic and environmental expertise. Mr. Saurette replied that he had worked with Commonwealth and can speak to their traffic engineering competence. Ms. Eva agreed with Mr. Saurette.

Ms. Gill asked what would happen if the applicant could not obtain access via the Route 24 side of the property. Ms. Federico stated that the applicant could seek a waiver from the conditions.

A vote was taken on the pending motion for Conditional Master Plan approval with the motion passing 7-1. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Gill, Ms. Guimond, Mr. Campbell and Mr. Saurette voted in favor of the motion. Ms. Eva was opposed to the motion.

C. Next Special Meeting Date and Items for Next Special Meeting Agenda

The Chairman stated that the next meeting date was scheduled for April 28, 2015 at 7:00 PM at the Tiverton High School Auditorium and that Development Standards and Guidelines would be reviewed.

Ms. Cote made a motion to continue all items to April 28 at 7:00 PM at the Tiverton High School Auditorium. The motion was seconded by Mr. Hardy. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Gill, Ms. Guimond, Mr. Campbell and Mr. Saurette voted in favor of the motion.

2. Tiverton Planning Board

A. Miscellaneous There was no miscellaneous discussion.

B. Adjournment: Mr. Saurette made a motion to adjourn. The motion was seconded by Mr. Hardy. The motion passed unanimously. Mr. Hughes, Mr. Hardy, Ms. Cote, Ms. Eva, Ms. Gill, Ms. Guimond, Mr. Campbell and Mr. Saurette voted in favor of the motion. The meeting adjourned at 10:15 P.M.

(Italicized words represent corrections made on the approved date.)

Submitted by: _____
Kate Michaud, Clerk

Approval Date: draft