

**AD-HOC TECHNICAL REVIEW COMMITTEE MEETING NOTES
TIVERTON HEIGHTS PRE-APPLICATION INFORMAL CONCEPT PLAN REVIEW
October 7, 2015**

A posted public meeting was held at approximately 10:30 A.M. at the Tiverton Town Hall, 343 Highland Road. Those present were:

Town Staff: Stephen Berlucchi, Director of Department of Public Works
Chief Thomas Blakey, Tiverton Police Department
Anthony DeSisto, Esq., Town Solicitor
Chief Robert Lloyd, Tiverton Fire Department
Kate Michaud, Planning Department Clerk / PB Administrative Officer
Marc Rousseau, Town Planner
Matthew Wojcik, Town Administrator

Planning Board: Stuart Hardy, Chairman

Applicant: Christopher Harkins, Applicant / Developer
Jeremy Lake, Union Studios Architect
William Landry, Esq., Applicant's Counselor
Thomas Principe, Engineer

Zoning Conformance & Application Process and Procedure

Ms. Michaud noted that a memorandum had been issued by the Town Solicitor, with a written response issued by Mr. Landry. She asked Mr. DeSisto to explain his position.

Mr. DeSisto read aloud from Zoning Ordinance Article V Section 2 (b):

“In any district, not more than one structure housing a permitted use, or principal use allowed by special use permit, may be erected on a single lot, except, however, more than one principal building may be allowed on a lot within a commercial, waterfront or industrial district provided the project undergoes development plan review...”

He stated that the application was proposing more than one structure on a single lot and therefore could not proceed as proposed.

Mr. Landry stated that they would agree to disagree and that the Town must look at the Zoning Ordinance as a whole. He opined that the Town intended for higher density on this parcel and that the Town did not intend for a single, large 35-foot tall structure. Mr. Landry noted that the project would require a Special Use Permit, and that as part of the Zoning Board's findings consistency with the neighborhood and consistency with the Comprehensive Community Plan would be a consideration. He urged the Town to review the Comprehensive Community Plan and read aloud from the document; specifically from the Housing Element as it pertains to the development of multi-family housing with an affordable component and development within the R-60 Zoning District. Mr. Landry stated that historically this had not been an issue in Tiverton, and that the Bayview project was approved just to the south of Mr. Harkins' property, which consisted of a multiple structure multi-family development. He opined that the Town “had it right” for a long time and encouraged further thought on the matter. Mr. Landry stated that the applicant had the ability to proceed to Master Plan. He added that the applicant could request a zoning modification or propose a Comprehensive Permit project. He concluded that this issue was not a “deal breaker”, but that he was surprised that it had been raised.

Ms. Michaud asked Mr. DeSisto to opine on the issue of past practice and the setting of a precedent. Mr. DeSisto stated that past practice was not binding on the Town and that this provision in Zoning is not unique to Tiverton but is found in ordinances across the State. He stated that he was not saying that the property is not developable, but that he did not want the developer to proceed without awareness of this legal barrier.

Mr. Landry stated that the applicant had options available, such as subdividing into a couple of hundred lots. He noted that the use would comply with Zoning, but that a variance would be required for each lot. He stated that the need for a variance could be avoided through a Comprehensive Permit process, which would also avoid any need to approach the Town Council for any modifications to Zoning. Mr. Landry stated that the applicant would not be willing to consider a single large building containing many units.

Mr. DeSisto stated that he did not see the Zoning issue to be a “poison pill”. Ms. Michaud noted that she would ask the Zoning Official for his determination with regard to Zoning consistency, adding that the applicant is aware of options and appeal rights. Mr. DeSisto clarified that any type of Zoning Certificate issued by the Zoning Official was not appealable. He cited case law supporting this fact. Mr. Harkins stated that the Planning Board and Zoning Board could take the Town Solicitor and Zoning Official opinions under advisement, but would ultimately make their own decision.

Utilities

Ms. Michaud noted that the applicant had met separately with North Tiverton Fire District and Wastewater Management. She asked the applicant to summarize these meetings. Mr. Principe stated that he had met with Bob Ouellette, Superintendent of the North Tiverton Fire District (NTFD) regarding water service. He stated that there were no specific plans yet as the exact layout of the project had not been determined. He stated that they had discussed average daily flow per household and peak daily flow per household. Mr. Principe noted that they would schedule pressure tests on the Fish Road hydrants.

Mr. Principe stated that he had also met with Sarah Stearns, Wastewater Management Superintendent. Ms. Stearns had forwarded as-built sewer plans to the applicant and the applicant would be performing a hydraulic analysis. Mr. Principe stated that Ms. Stearns did not anticipate any capacity issues. He added that the applicant would need to refine the proposed density and total number of units.

Mr. Hardy noted that the NTFD had recently installed a 16-inch water main in Fish Road. He stated that this meant that there should be plenty of water and pressure for this proposed project when the required infrastructure is installed. Mr. Hardy stated that his concern was with long range planning and the potential impact of developments that have been approved but not yet constructed, along with the proposed project, on pressure and fire suppression capacity elsewhere in Town. Chief Lloyd stated that the water department would likely rely on computer modeling, but that he did not feel that computer modeling would adequately provide information regarding the actual impact. Mr. Harkins stated that NTFD was utilizing a consulting engineer to perform modeling for them. Mr. Hardy stated that in his recent discussions with NTFD, they indicated that they were no longer performing modeling. He stressed that even if they were modeling the proposed project, other projects should be factored in. Mr. Harkins noted that the models would look at the peak flow demand and that actual use could be a quarter of the size. Mr. Hardy summarized that the Planning Board would be looking for more information regarding water.

Chief Lloyd opined that more information on the water system was needed for the whole north end of town, including the actual water flows. He noted that modeling would assume that the system was functioning perfectly. Mr. Berlucchi opined that the proposed casino and development within the Industrial Park should be considered. He added that more information has been needed for a while. Mr. Harkins noted that the Stone Bridge Fire District lines were closer to his property, but he could not connect due to jurisdictional issues.

Mr. Wojcik stated that he felt that the Fire Chief had the ability to inquire about the firefighting capacity of the water system. He stated that future applicants would need to consider this proposed project and that the Town addresses projects in the order that they are received. He agreed that the Town would be looking at peak usage flows, such as when the existing power plant in the Industrial Park fills its tanks.

Mr. Harkins stated that he would be able to take care of any pressure issues, but that volume could be an issue of concern. Mr. Wojcik stated that the applicant might need to install some type of reservoir system for volume. He noted that this was one reason why the density was so important. Mr. Harkins stated that he was proposing approximately 40% less units than what is allowed under the Zoning Ordinance. He stated that this was the place for more dense development. Mr. Wojcik noted that the developer's economic model would factor into the proposed density. He stressed that the Town would defend the Fire Chief in his assessment of what is necessary. He added that public safety "trumps all cards". Mr. Wojcik stated that it would be an absurdity to allow for higher density in an area where fire safety would be an issue. He concluded by asking the applicant to include the Fire Chief in discussions regarding water service. The applicant agreed.

Ms. Michaud asked if there would be gas service to the property. Mr. Harkins replied that it was his intention. Chief Lloyd asked about hydrant placement. Mr. Principe replied that they were not yet to that level of detail.

Access and Traffic

Ms. Michaud noted that the last plan reviewed by Department Heads depicted a single access on Souza Road. She asked the applicant to review the current configuration depicting two access points on Souza Road. Mr. Lake displayed a layout plan, pointing out the two proposed points of access. He noted that there was no Fish Road access proposed at this time. Mr. Harkins stated that this could change if the proposed layout changes, and that any affordable housing component would be a factor.

Chief Blakey expressed concern regarding sight lines, noting that they were generally terrible on Souza Road. Mr. Harkins replied that they would perform a full traffic study, but they had not yet. Chief Blakey noted that the intersection of Bulgarmarsh and Fish Roads had met the warrant for a traffic signal, with approximately 20 minutes of delay during peak times. He added that this was due to the high traffic volume on Fish Road. He expressed concern regarding drivers attempting to avoid the delays by cutting through neighborhoods. He also expressed concern regarding truck traffic originating from the quarry on the east side of Fish Road in the vicinity of the proposed development. Mr. Berlucchi suggested that the vertical curve of the road would also be a factor. The two nearest intersections, Main Road at Souza Road / Schooner Drive and Fish Road at Souza Road, were briefly discussed with a general concern for traffic safety.

Site Engineering

Mr. Principe noted that the wetlands on site had been flagged, but that RIDEM (RI Department of Environmental Management) verification had not yet been requested. He stated that he was currently working to refine a conceptual stormwater management plan. Mr. Harkins stated that the stormwater modeling had been performed and that there was enough space on site to manage the stormwater.

Mr. Harkins stated that he had met with the Fire Department regarding building spacing and road widths. He stated that he implemented changes based on their discussion including increased radii and alleys. Chief Lloyd stated that he wanted to look closer at the proximity of the structures to each other. He stressed that NFPA (National Fire Protection Association) standards would be applied. Mr. Harkins stated that the closest buildings were twelve (12) feet apart, with the average being fifteen (15) feet apart. He opined that this was typical for multi-family development. Mr. Lake stated that they would work closely with the Fire Department.

Miscellaneous

Mr. Landry addressed the density issue, noting that the applicant would be assembling a Master Plan application. He acknowledged that the applicant would be required to meet any and all health and safety standards. He stated that the applicant would also be looking at the affordability requirements. Mr. Landry referenced the affordable housing (inclusionary zoning) requirement of the Town as written in Zoning Ordinance Article XXII. He specifically referred to *Section 10. Affordable housing* provisions and the requirement for the applicant to present an alternate plan depicting 30% affordable housing [for multi-family development]. He inquired about the process. Ms. Michaud stated that the ordinance required the alternate plan to be presented to the Planning Board, who could then accept or reject it. Mr. Lake stated that in order to provide affordable housing the applicant would not look for a higher density within the areas already proposed for development, but would likely look to develop other areas of the site. Mr. Landry added that a diversity of housing types could be considered.

Action Items

- Ms. Michaud stated that she would type up written notes for review by those in attendance. She would then forward the notes to the Planning Board.
- A written opinion from the Zoning Official regarding Zoning conformance would be requested by Ms. Michaud.
- The applicant will determine the path that they wish to travel with the regard to the type of application that would be filed.

The meeting concluded at approximately 11:30 A.M.

Prepared by: Kate Michaud

NOTICE TO PARTICIPANTS: The above is my understanding of the matters discussed. You are requested to review these items and advise, in writing, of any errors or omissions. If no comments are received, concurrence will be assumed.