



# Town of South Kingstown, Rhode Island

## PLANNING DEPARTMENT

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March 20, 2023

Blish & Cavanagh, LLP  
c/o Matthew J. Landry, Esq.  
30 Exchange Terrace  
Providence, RI 02903

RE: South County Commons – District 5 Apartments  
Assessor’s Plat 50-4, Lot 22  
Conceptual Master Plan

Dear Mr. Landry:

Over the course of the last month, Planning Staff has been in correspondence with Eric Prive, Project Engineer, in regard to density and vesting information related to the waiver requests associated with the District 5 Apartments Conceptual Master Plan application. Within that correspondence, Mr. Prive explained that it was his understanding that the applicant has a vested and active Master Plan from when the Route 1 Special Management District Zoning Ordinance was approved around May 10, 1999.

In reviewing the approval history of *The Village at South County Commons*, we would like to bring the following information to your attention:

- On February 23, 1998, the Route 1 Special Management District Amendments were adopted by the Town of South Kingstown.
- On August 11, 1998, the Planning Board voted “*To grant Conceptual Master Plan approval for the land development project entitled ‘The Village at South County Commons’ in accordance with plans and supporting documents...*”. The written decision, dated August 12, 1998, as well as the plan referenced in the decision, is attached.
- The approval decision referenced a Conceptual Master Plan, entitled “*Master Plan Land Use Plan*” for *The Village at South County Commons, South Kingstown, RI* completed by *Weinmayr Associates, Inc.* and *Diprete Engineering Associates, Inc.* The referenced plan provided site development information, as well as a breakout of the proposed uses and use limitations, for all eight (8) districts within the South County Commons. In reference to District 5, the *Master Plan Land Use Plan* states:

District Five

*Use limitations: No retail or residential*

*Anticipated Use: 100% Light Industry, commercial, office*

<u>Use</u>	<u>Total Usable Area</u>	<u>% of Usable Site Area</u>
<i>Lt. Ind., Office</i>	<i>14.76 acres</i>	<i>17.7%</i>

- Later, in correspondence dated March 2, 2017, associated with the previous application in permitting the existing hotel, Attorney John F. Kenyon explained, in part, that *“The original Master Plan approval contained a map entitled, ‘Master Plan Land Use Plan’”* and *“That plan divided the property up into eight districts. The subject property is in District Five which included the use limitations (no retail or residential) anticipated use; 100% light industry, commercial, office.”*

The August 1998 Conceptual Master Plan approval clearly recognized that District 5 was to be developed with 100% light industrial uses (including commercial and office use) and neither retail nor residential uses were anticipated nor proposed (as specifically stated on the approved Master Plan). As such, it's clear to us that the subject property never received Master Plan approval for any type of residential use, including the proposed District 5 Apartments. Furthermore, as the applicant never requested or received approval for residential uses within District 5 and, in fact, the prior approvals expressly stated that the district would not contain any residential uses. Consequently, we don't understand the basis for Mr. Prive's claim that the proposal acquired a vested right to residential development densities in-place at the time the Master Plan was originally approved. It is hard to understand how one can claim that they are vested in any particular residential density for an area that was never approved for residential development from the onset.

Given the above information, it is our stance that in order to proceed with the current proposal, the applicant will need to amend their August 11, 1998, Conceptual Master Plan approval with the Planning Board. While we understand that the current application is being submitted as a Comprehensive Permit, Staff is not aware that the Comprehensive Permit process allows for an applicant to by-pass any typical stage of review, particularly Conceptual Master Plan. It is possible that the current application will need to be paused and/or withdrawn and resubmitted after the original Master Plan for South County Commons is amended.

Respectfully,

*James D. Rabbitt*

James D. Rabbitt, AICP  
Planning Director