



**SOUTH KINGSTOWN PLANNING DEPARTMENT
PROJECT REVIEW MEMO
TOWER HILL LANDINGS ANNEX
Major Land Development – Preliminary Plan Review**

Project Type:	Major Land Development		
Review Stage:	Preliminary Plan Review		
Address:	2095 Kingstown Road		
Plat:	32-4	Lot:	32
Parcel Size:	~ 1.23 acres	Zoning District:	CN & R10 (split zoned)
Applicant:	Tower Hill Landings Annex, LLC	Owner:	DCH 1 Realty Holding South, LLC
Current Plan Set:	<i>SITE PLAN SET FOR PROPOSED 11 UNIT RESIDENTIAL DEVELOPMENT, TOWER HILL LANDINGS ANNEX, LLC, Plat 32-4, Lot 32, Zoning Districts: CN and R-10, Commercial Neighborhood and Medium High Density Residential District and Kingstown Road Special Management District, 2095 Kingstown Road (Route 108), South Kingstown, R.I., Sheets 1 through 18, dated July 2020, by Crossman Engineering, 151 Centerville Road, Warwick, RI 02886.</i>		

Property Characteristics

The property is approximately 1.23 acres and was formerly developed with a restaurant (which has since been razed) and is now currently vacant. Located on Kingstown Road within the Kingstown Road Special Management District, this parcel is adjacent to the existing Tower Hill Landings Apartment complex and the proposed project will be an extension to this multi-household residential development. The parcel is encroached by a riverbank wetland setback in the northeast corner of the Site, and will be serviced by municipal water and sanitary sewer services.

Project Description

The applicant is proposing to construct an eleven (11) unit multi-family residential development on this property that will operate as part of the larger Tower Hill Landings complex. The unit mix is proposed to have nine (9) four-bedroom and two 2-bedroom units and two (2) two bedroom units. One (1) four-bedroom unit and one (1) two-bedroom unit will be designated affordable and rented at 80% of AMI and one of the two bedrooms will be handicap adaptable.

The property will be serviced by public water and sewer. The proposed eleven units will be housed in 2 buildings with footprints of 5,633 and 5,023 square feet. Building 1 will contain four (4) 1,322 square foot four-bedroom units and two (2) 940 square foot two-bedroom units. Building 2 will contain five (5) 1,322 square foot four-bedroom units. Both buildings will be set back twenty-five (25) feet from Kingstown Road (Route 108) and will be constructed within the required setbacks with a 10-foot separation between the two buildings. The building placement will allow for the installation of a sidewalk to connect the property to the bus stop located at the entrance of Tower Hill Landings. The Lot coverage for the proposed buildings is 20.1% (30% allowed).

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The development will provide fifty-three (53) parking spaces where forty (40) are required by the Zoning Ordinance for household occupancy for three (3) or more unrelated individuals. These parking spaces are located in the rear of the buildings and are proposed to accommodate this development, as well as provide several “overflow” spaces from the existing apartment complex that currently experiences insufficient parking conditions. The parking lot is proposed to be designed and constructed with pervious pavement that includes subsurface stormwater storage with overflow to a stormwater management area designed and constructed as a sand filter.

The access to the proposed development will be through the existing Tower Hill Landings Apartments entrance without the need for a new separate access drive from Kingstown Road (Route 108). The elimination of access onto Route 108 will eliminate any potential traffic issues from another entrance in close proximity to the existing Tower Hill Landings entrance.

The plan also includes 5,300 square feet of open space to meet the 10% of developable land area required for multi-household land development projects per the Subdivision and Land Development Regulations. Landscaping buffers on the north side of the property and along the Route 108 streetscape, as well as lighting improvements are proposed to enhance the overall appearance of the site while providing a safe and inviting environment for residents.

Proposed building footprint sizes and residential unit details are as follows:

	Building Footprint (square feet)	Number of Units	Number of Bedrooms	Unit Size (square feet)
Building 1	5,633	2	2	940
		4	4	1,322
Building 2	5,023	5	4	1,322

Waivers Requested

Waivers anticipated to be requested for this Major Land Development include:

Article IV – Special Requirements: (G) Landscaping	
<i>(G.3) Perimeter Landscaping – Parking Lots and Loading Facilities: No less than ten (10) feet in width where the parking area contains five (5) spaces or more or which exceeds 2500 sq. ft. of paved area.</i>	
Required:	10' (minimum)
Proposed:	0'
Article IV – Special Requirements: (H) Multi Household Dwellings	
<i>(H.7) Front Yard Setbacks for Multi-Household Land Development Projects: Multi-Household Land Development Projects (Use Code 12.1 and 12.3), when located along any public street, shall provide a minimum front yard setback of 100 feet along said public street. No building, accessory building, parking lot or utility area shall be located in any such front yard. In addition, a landscaped or natural buffer zone of 50-foot width, shall be maintained along said public street and may be used for any required yard, open space or recreation space, for access driveways (no parking allowed) or for other necessary entrance and exit facilities.</i>	
Required:	100' front yard setback 50' landscaped buffer zone
Proposed:	25' front yard setback 25' landscaped buffer
<i>(H.9) Distance between Buildings on Same Lot: In any Multi-Household Land Development Project, the minimum distance between two (2) buildings or any two (2) rows of buildings, substantially parallel to each other, shall be fifty (50) feet. The minimum distance between two (2) abutting ends</i>	

<i>of buildings in the same general plane or row, shall be twenty-five (25) feet, if such walls contain no windows serving habitable rooms or shall otherwise be fifty (50) feet.</i>	
Required:	50' (minimum)
Proposed:	10'
RIGL § 45-23-41 (General Provisions – Major land development and major subdivision – Preliminary Plan)	
(2) Requirements for the preliminary plan and supporting materials for this phase of the review include, but are not limited to: engineering plans depicting the existing site conditions, engineering plans depicting the proposed development project, a perimeter survey, <u>all permits required by state or federal agencies prior to commencement of construction</u> , including permits related to freshwater wetlands, the coastal zone, floodplains, preliminary suitability for individual septic disposal systems, public water systems, and connections to state roads..	
Waiver request from the requirement that Tower Hill Landings Annex Major Development Project provide all local and State permits at the time of Preliminary Plan review. Permit requests were submitted to RIDEM and RIDOT in August 2020 with an anticipated response mid to late October 2020. If permits are approved after the submittal deadline of October 9 but prior to the October 27 th Planning Board meeting they will be forwarded to the Principal Planner with copies for the Planning Board members or submitted immediately upon receipt.	

Decision Deadline

This application was certified complete on September 28, 2020, therefore the Planning Board has until December 27, 2020 to render a decision on this application (90 days). There is one (1) regular Planning Board meeting after the October 27, 2020 meeting prior to the deadline.

Regulatory Considerations

Preliminary Plan Definition

Per the Regulations, the Preliminary Plan is the stage of land development and subdivision review that requires detailed engineering drawings and all required state and federal permits.

Section 401 (Zoning – Dimensional Requirements)

Section 401 (Schedule of dimensional regulations) provides the maximum density allowed for multi-household land development projects. The allowed density for the subject property is:

15,000 for first two (2) dwelling units plus 5,000 square feet per each additional dwelling unit.

At 53,579 square feet, the maximum density for the subject property is 9.72 dwelling units.¹

Section 401 requires a 25' front-yard setback which may be reduced to zero (with justification) by the Planning Board. Section 402.9(B) also requires that transition yard landscaping be provided along the north-northwestern property boundary where the development abuts a nearby residential use.

Section 604 (Zoning – Kingstown Road Special Management District)

Section 604(B) requires a no-access easement (along Kingstown Road frontage) in favor of the Town of South Kingstown. Section 604(E) also requires a landscaped street yard between the building and the street.

¹ Article IV, Section H(8) – Density Requirements of the Subdivision and Land Development Regulations specifies a allowable density that is more restrictive than that which is prescribed within the Zoning Ordinance. When regulatory conflicts such as this exist, the Zoning Ordinance takes precedent over other conflicting standards.

Article IV, Section H – Multi-Household Land Development Project

Section H(6) requires screening (transition landscaping) along the northern boundary. Section H(9) requires that the parking lot be set back from the wall of any building, that 10% of the developable area (~5,358 square feet) must be dedicated as open space, type dictated by occupants and approved by the Planning Board, and that the minimum distance between buildings shall be 50'.

Inclusionary Zoning

Section 502.6 (Inclusionary Zoning) of the Zoning Ordinance outlines the Inclusionary Zoning requirements and procedures for major subdivisions or land development projects that consist of six (6) or more parcels or units. Those requirements are listed, in part, below:

- E. *Base density calculation, inclusionary requirements and targeted populations.* ...A minimum of 20 percent of the basic maximum number of lots/units must be affordable to low and/or moderate income households as defined under G.L. 1956, §45-53, Low and Moderate Income Housing Act. To facilitate such targeting and ensure that inclusionary units are well integrated into the subdivision or land development project, the planning board shall have the authority to specify the type and location of unit(s) to be constructed, the size and scale of these units or lots in relation to the market rate units or lots in the development, establish general design parameters for the inclusionary units and determine a construction time table for construction.
- F. *Zoning Incentive.* For all subdivisions, flexible design land development projects and land development projects that are subject to the provisions of this section, a zoning incentive increasing the basic maximum number of lots or dwelling units by a factor of 1.2 shall be required. Units required under the zoning incentive provisions of this section shall count toward the maximum zoning incentive permitted under subsection 502.5.E of this ordinance. The requirement for such inclusionary units shall constitute a municipal government subsidy as defined under the RI Low and Moderate Income Housing Act and this ordinance.
- G. *Inclusionary units, deed restriction requirements.* All inclusionary units required under this section shall meet the definition of "low and moderate income housing" as defined in G.L. 1956, § 45-53-3; provided however that units and/or lots generated under these inclusionary provisions shall remain affordable for a minimum period of 99 years. Further provided that any for-sale lots or units shall be sold or conveyed to persons or households earning up to 80 percent of the area median income (AMI) for South Kingstown as defined by the U.S. Department of Housing and Urban Development.

The developer of inclusionary units must contract with a monitoring agency that will qualify home buyers and/or renters for initial occupancy, determine pricing and resale or transfer of dwelling units in accordance with RI Housing and Mortgage Finance Corporation regulations and standards. Rhode Island Housing and the Town of South Kingstown shall be a party to any such monitoring agreement. Long-term affordability shall be guaranteed through the recording of restrictions on the sale, transfer and ownership of the unit through the appropriate legal documents and monitoring agreement.

- I. *Modification of lot requirements for inclusionary units.* To encourage good design and to reduce construction, land and infrastructure costs the planning board shall have the discretion to modify (or require the modification of) minimum dimensional standards for inclusionary dwelling units/lots. Such modifications shall be in accord with the standards and requirements set forth in subsection 502.5.F of this ordinance.

The zoning incentives within the Inclusionary Zoning provisions of the Ordinance allow for a total of twelve (12) units with two (2) being deed restricted affordable units. The applicant is proposing a total of eleven (11) units with two (2) deed restricted affordable units.

Review to Date

Pre-Application Review

Technical Review Committee Meeting – March 11, 2020
Planning Board Meeting – April 30, 2020

Conceptual Master Plan Review

Technical Review Committee Meeting – May 13, 2020
Conservation Commission Meeting – June 4, 2020
Planning Board Meeting – June 23, 2020
Zoning Board of Review – August 19, 2020 (Special Use Permit granted for occupancy by more than three [3] unrelated individuals)

Preliminary Plan Review

Technical Review Committee Meeting – September 9, 2020

Item/Issue Discussed	Recommendation	Status
Landscaping	<ul style="list-style-type: none"> • The landscape plan should not include the use of Blue Spruce due to blight. • The landscape plan should substitute the planting diagram from Article 13 of the Subdivision Regulations for the one used in the plan. 	<ul style="list-style-type: none"> • To be addressed with the Planning Board. • To be addressed with the Planning Board.
Inclusionary Units	<ul style="list-style-type: none"> • The plan must identify a monitoring agent for the affordable housing units prior to Preliminary Plan approval. • The plan should include a building timetable specifying when the affordable units will be constructed relative to the remainder of the units. 	<ul style="list-style-type: none"> • Satisfied, the applicant has secured <i>The Community Housing Land Trust of Rhode Island</i> as a monitoring agent. • Satisfied with a condition of approval.

Required Findings

In approving this major land development application, the Board must make positive findings on the following standard provisions:

- (1) The proposed development is consistent with the comprehensive community plan and/or has satisfactorily addressed the issues where there may be inconsistencies;
- (2) The proposed development is in compliance with the standards and provisions of the municipality's zoning ordinance;
- (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;

- (4) The development, as proposed, will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable. (See definition of Buildable lot). Lots with physical constraints to development may be created only if identified as permanent open space or permanently reserved for a public purpose on the approved, recorded plans; and
- (5) All proposed land developments and all subdivision lots have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered in compliance with this requirement.

The approving authority must also address each of the following general purposes of zoning:

- (1) Providing for the orderly, thorough and expeditious review and approval of land developments and subdivisions;
- (2) Promoting high quality and appropriate design and construction of land developments and subdivisions;
- (3) Promoting the protection of the existing natural and built environment and the mitigation of all significant negative impacts of any proposed development on the existing environment;
- (4) Promoting design of land developments and subdivisions which are well-integrated with the surrounding neighborhoods with regard to natural and built features, and which concentrate development in areas which can best support intensive use by reason of natural characteristics and existing infrastructure;
- (5) Encouraging local design and improvement standards to reflect the intent of the community comprehensive plans with regard to the physical character of the various neighborhoods and districts of the municipality;
- (6) Promoting thorough technical review of all proposed land developments and subdivisions by appropriate local officials;
- (7) Encouraging local requirements for dedications of public land, impact mitigation, and payment-in-lieu thereof, to be based on clear documentation of needs and to be fairly applied and administered; and
- (8) Encouraging the establishment and consistent application of procedures for local record-keeping on all matters of land development and subdivision review, approval and construction.

With regard to waivers, the Regulations (Article VIII.B.1) require that the Planning Board find that:

- a. The waivers or modifications are reasonable and within the general purposes and intents of the Regulations; and,
- b. Literal enforcement of the regulation is impracticable and will exact undue hardship because of peculiar conditions pertaining to the land in question; or waiver or modification of the regulation is in the best interest of good planning practice or design as evidenced by consistency with the Comprehensive Community Plan and the Zoning Ordinance.

Draft Motions for Consideration

“The South Kingstown Planning Board hereby grants Preliminary Plan approval to Tower Hill Landings Annex, an eleven (11) unit multi-family residential development located on AP 32-4, Lot 32 with a physical address of 2095 Kingstown Road, Tower Hill Landings Annex, LLC, *applicant/owner*. This

approval is based upon plan set entitled: *SITE PLAN SET FOR PROPOSED 11 UNIT RESIDENTIAL DEVELOPMENT, TOWER HILL LANDINGS ANNEX, LLC*, Plat 32-4, Lot 32, Zoning Districts: CN and R-10, Commercial Neighborhood and Medium High Density Residential District and Kingstown Road Special Management District, 2095 Kingstown Road (Route 108), South Kingstown, R.I., Sheets 1 through 18, dated July 2020, by Crossman Engineering, 151 Centerville Road, Warwick, RI 02886. This approval is based on the following Findings of Fact and Conditions of Approval:

Findings of Fact

- A. The proposed development is consistent with the comprehensive community plan and/or has satisfactorily addressed the issues where there may be inconsistencies;
- B. The proposed development is in compliance with the standards and provisions of the municipality's zoning ordinance;
- C. There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval;
- D. The development, as proposed, will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable. (See definition of Buildable lot). Lots with physical constraints to development may be created only if identified as permanent open space or permanently reserved for a public purpose on the approved, recorded plans; and
- E. All proposed land developments and all subdivision lots have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered in compliance with this requirement.
- F. Thorough technical review of the subdivision has been conducted by the South Kingstown Technical Review Committee.

Findings of Fact, Inclusionary Zoning & Affordable Units

- G. Pursuant to Article 5, Section 502.6 E. of the Zoning Ordinance, the Planning Board hereby accepts the yield plan presented by the applicant which demonstrates the ability of the development parcel to support a 'basic maximum number' of nineteen (19) lots.
- H. The applicant has proposed that three (3) of the sixteen (16) lots (Lots 15 and 16, respectively) will be deed restricted affordable to 'low and/or moderate income households' as defined under Rhode Island General Laws §45-53 and the South Kingstown Zoning Ordinance.
- I. The Planning Board finds that the proposed affordable units (on Lots 15 and 16) are integrated within the development and that the design of the lots is consistent with the design of the market rate lots within the development. Based on this finding, the Planning Board has determined that the overall project design meets the intent of Article IV.I of the Town's Subdivision and Land Development Regulations.
- J. These affordable units (on Lots 15 and 16) shall be built and available for occupancy simultaneously with the construction and availability for occupancy of the market rate units in each of any separate phases of development.
- K. Consistent with Section 502.6.J. of the Zoning Ordinance, the affordable units (on Lots 15 and 16) shall be exempt from the Town's Pacing and Phasing requirements.
- L. The affordable units (on Lots 15 and 16) shall be eligible for an exemption from the payment of Fair Share Development Fees pursuant to Section 1101.D.1 of the Zoning Ordinance and Section II, Element 5, III of the Town's Capital Improvement Program.

Findings of Fact, Requested Relief

In accordance with Article VIII, Section B(1) of the Subdivision and Land Development Regulations with regard to waivers, the Planning Board hereby grants the waivers proposed:

Article IV – Special Requirements: (G) Landscaping	
(G.3) Perimeter Landscaping – Parking Lots and Loading Facilities: <i>No less than ten (10) feet in width where the parking area contains five (5) spaces or more or which exceeds 2500 sq. ft. of paved area.</i>	
Required:	10' (minimum)
Proposed:	0'
Article IV – Special Requirements: (H) Multi Household Dwellings	
(H.7) Front Yard Setbacks for Multi-Household Land Development Projects: <i>Multi-Household Land Development Projects (Use Code 12.1 and 12.3), when located along any public street, shall provide a minimum front yard setback of 100 feet along said public street. No building, accessory building, parking lot or utility area shall be located in any such front yard. In addition, a landscaped or natural buffer zone of 50-foot width, shall be maintained along said public street and may be used for any required yard, open space or recreation space, for access driveways (no parking allowed) or for other necessary entrance and exit facilities.</i>	
Required:	100' front yard setback 50' landscaped buffer zone
Proposed:	25' front yard setback 25' landscaped buffer
(H.9) Distance between Buildings on Same Lot: <i>In any Multi-Household Land Development Project, the minimum distance between two (2) buildings or any two (2) rows of buildings, substantially parallel to each other, shall be fifty (50) feet. The minimum distance between two (2) abutting ends of buildings in the same general plane or row, shall be twenty-five (25) feet, if such walls contain no windows serving habitable rooms or shall otherwise be fifty (50) feet.</i>	
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RIGL § 45-23-41 (General Provisions – Major land development and major subdivision – Preliminary Plan)	
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Waiver request from the requirement that Tower Hill Landings Annex Major Development Project provide all local and State permits at the time of Preliminary Plan review. Permit requests were submitted to RIDEM and RIDOT in August 2020 with an anticipated response mid to late October 2020. If permits are approved after the submittal deadline of October 9 but prior to the October 27 th Planning Board meeting they will be forwarded to the Principal Planner with copies for the Planning Board members or submitted immediately upon receipt.	

In doing so, the Planning Board finds that:

- M. The waiver(s) or modification(s) is/are reasonable and within the general purposes and intents of these regulations; and that
- N. Literal enforcement of the regulations is impracticable and will exact undue hardship because of the peculiar conditions pertaining to the land in question; or waiver or modification of the

regulations is in the best interest of good planning practice or design as evidenced by consistency with the Comprehensive Community Plan and the Zoning Ordinance.

Conditions of Approval

1. The use of the property shall be limited to Use Code 12.1 (Multi-household Land Development Project) for residential development as proposed.
2. This approval is further limited to nine (9) market rate units and two (2) affordable units for a total of eleven (11) units. Approval is based upon the provision of 20% (2 units) subsidized housing units available for low and moderate income residents. The low and moderate income dwelling units (LMI Housing units) will be sold to a person or family with an income at or below 80% of the Area Median Income and be deed restricted for a period of 99 years.
3. Proposed LMI Housing units shall be integrated throughout the development, shall be compatible in scale and architectural style to the market rate units within the project, and they shall be built and offered for occupancy simultaneously with the construction and occupancy of the market rate units.
4. As part of the Final Plan submittal, the applicant shall propose the schedule by which the LMI Housing units will be constructed and available for occupancy. Said schedule shall not exceed the construction and occupancy of three (3) market-rate units for every one (1) LMI Housing unit. Presuming simultaneous construction of dwelling units within this development, this schedule shall be managed and satisfied through the issuance of Certificates of Occupancy (CO's).
5. As part of the Final Plan submittal, the applicant shall provide drafts of a 'Monitoring Agreement' and a 'Deed Restriction' that will ensure that affordability guidelines will be met. Such documents shall be subject to the review and approval of the Town's Special Legal Counsel.
6. The monitoring agreement between the developer and the monitoring agent shall require notification to the Town of South Kingstown, as a party with a vested interest, of the availability of affordable housing units for purchase or lease. Any such notification shall be directed to the Director of Planning.
7. Fair Share Development Fees as required in the Zoning Ordinance and as amended annually in the Capital Improvement Program shall be required for each of the nine (9) market rate units.
8. The parking lot shall be designed and installed with pervious pavement to minimize potential water quality impacts from stormwater.
9. The applicant shall utilize low impact drainage methodologies in conformance with the Rhode Island Stormwater Design and Installation Standards Manual or other best management practices.
10. Prior to Final Plan submission, the applicant shall provide a response from the RI Department of Environmental Management (RIDEM) associated with wetland and stormwater permitting, as well as a response from RI Department of Transportation (RIDOT) associated with the Physical Alteration Permit (PAP), to the Department of Public Services for review and concurrence. Should the Department of Public Services have any concern with any of the State permitting correspondence, the Administrative Officer reserves the right to have Final Plan approval conducted by the Planning Board.
11. Prior to Final Plan submission, the applicant shall submit a traffic report (detailing the anticipated traffic impacts from the proposed development and the adequacy of the existing and proposed roadways to safely accommodate existing and projected traffic) to the

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Department of Public Services for review and concurrence. Should the Department of Public Services have any concern with the contents of the traffic study, the Administrative Officer reserves the right to have Final Plan approval conducted by the Planning Board.

12. Prior to Final Plan submission, the applicant shall submit a downstream carrying capacity analysis to the Department of Public Services for review and approval. Approval of the sewer connection from the Department of Public Services shall be included with the Final Plan at the time of application submittal.
13. As part of the Final Plan submittal, an executed 'No Access Easement' shall be granted to the Town of South Kingstown (as a grantee) prohibiting any future driveway or other vehicular access from Kingstown road.
14. As part of the Final Plan submittal, an 'Open Space Easement' shall be granted to the Town of South Kingstown (as a grantee) for the purposes of enforcing the covenants of the easement.
15. **And any other conditions deemed necessary by the Planning Board in consideration of this application...**