



SOUTH KINGSTOWN PLANNING DEPARTMENT
PROJECT REVIEW MEMO
60 Old Tower Hill Road
Advisory Development Plan Review
February 15, 2024

Project Type:	Development Plan Review		
Review Stage:	N/A		
Address:	60 Old Tower Hill Road		
Plat:	57-2	Lot:	71
Parcel Size:	21,047 square feet	Zoning District:	CH
Applicant:	Gaspee Real Estate Partners c/o Steve Hardy 333 Main Street, Suite 200 East Greenwich, RI 02818	Owner:	Gansett Group SK, LLC 33 Main Street, Suite 200 East Greenwich, RI 02818

Property Characteristics

The subject property is a formerly used restaurant located east of the Dale Carlia intersection. Located in a Commercial Highway (CH) Zoning District, the parcel is 21,047 square feet in size with frontage along the northern side of Old Tower Hill Road. While located in a concentrated commercial corridor, this parcel also directly abuts a Residential Multi-Household (RM) Zoning District that is occupied entirely by Indian Run Village, a 115-unit residential multi-household development.

Project Description

The applicant is proposing to adaptively reuse the existing Site and structure for a new restaurant venture maintaining many of the same characteristics as previous restaurants at this location with the addition of a drive-up window for online order pickups. The building is being reduced in size and renovated, along with parking, circulation, and landscaping improvements.

Parking, Loading & Access

With the proposed reduction in building footprint, the applicant is proposing to modify the existing parking and circulation patterns by maintaining a drive-up lane, as well as a travel lane for general vehicular circulation around the building.

For a use such as this, the required number of parking spaces total twenty-six (26) with twenty-six (26) being proposed (1 space for every 90 square feet of floor area). **While the application appears to comply with Zoning requirements, capacity levels of the restaurant will ultimately be determined by Fire Code. A determination should be made as to what that capacity (as determined by the Fire Department) will be compared to the number of parking spaces proposed. While this topic was brought up by Planning Staff and discussed with the applicant and Fire Department at TRC, this information has not been provided and Planning Staff has not been able to review this information.**

Drainage

The applicant has indicated that, *as part of the site improvements, a small stormwater depression is also being proposed within the westerly landscaped area, as requested by the Town, to improve stormwater conditions onsite. The modifications listed above will result in a decrease in total*

impervious coverage within the site. Existing conditions of the site yield 87.6% (18,437 sq. ft.) impervious coverage, whereas the proposed conditions will decrease to 81.7% (17,195 sq. ft.) impervious coverage. As exists today, the site sheet flows all stormwater towards Old Tower Hill Road where it is captured by catch basins within the right of way. Bohler is proposing to maintain sheet flow towards Old Tower Hill Road, but while doing so will be improving grades onsite to better channel stormwater towards the right of way and avoid any potential pooling of stormwater.

As previously mentioned, a stormwater depression is being proposed on the westerly side of the site with a curb break between the landscaping and paved parking area that will collect a portion of the parking area, further decreasing the amount of runoff directed to Old Tower Hill Road. The proposed design decreases impervious surfaces within the parcel, improves grades to better channel stormwater towards Old Tower Hill Road, and proposes a stormwater depression to capture a portion of the proposed parking areas runoff. Additionally, the proposed improvements will improve stormwater recharge and water quality through the decrease in impervious surfaces.

Landscaping

Landscaping improvements include landscaped beds immediately adjacent to the east and western sides of the proposed building with landscaped islands in each corner of the property and parking lot, and a landscaped bed along the street frontage between a narrow grass strip within the Old Tower Hill Road right-of-way and the outdoor seating/dining area off the south side of the building.

Waivers Requested

The applicant is requesting the following waivers associated with this proposal:

- **DPR Checklist Item (D)5 – RIDOT Physical Alteration Permit**
The applicant has indicated that: *A Physical Alteration Permit (PAP) with Rhode Island Department of Transportation (RIDOT) is needed for this project as part of the DPR Checklist. The applicant is respectfully requesting a waiver from this requirement as driveway curb cuts already exist at the site today, and the applicant is simply proposing to slightly modify these existing curb cuts by reducing their widths. The applicant will be submitting the RIDOT PAP application within the coming weeks.*
- **Zoning Ordinance Article 4 Section 401 – Dimensional Requirements (Front-yard Setback)**
The applicant has indicated that: *The proposed development does not comply with the required forty (40) foot front yard setback as the building is within this required setback indicated in the Zoning Ordinance. The applicant is respectfully requesting a waiver from this requirement as the existing building is a non-conforming condition that is being maintained as part of the project. The front building setback is 24.6ft from the front property line.*
- **Zoning Ordinance Article 4 Section 402.1.2 – Transitional Yard Landscaping**
The applicant has indicated that: *The proposed development is not in compliance with this section of the Zoning Ordinance listed above requiring there to be a ten (10) foot rear yard screening buffer and a thirty (30) foot side yard screening buffer as the lot is abutting a residential zone. The applicant is respectfully asking for a waiver from this requirement as the proposed development is improving an existing non-conforming condition. The rear yard buffer increases from 0.8 feet to 1.0 feet, and the side yard buffer increases from 1.5 feet to 3.5 feet. The proposed development is also enhancing the landscaping on site from the existing conditions as shown on the Landscape Plan included with the application.*
- **Zoning Ordinance Article 5 Section 505 - Landscaping**
The applicant has indicated that: *Any new use that requires Development Plan Review is subject to the required landscaping put forth in the Subdivision and Land Development Regulations and Zoning Ordinance. This includes transition yards as defined in Article 12 due to the abutting of the Residential Zone. For the reasons listed above, including the existing*

non-conformities on site, the applicant respectfully requests a waiver from the above regulation.

Regulatory Considerations

Section 301 (Schedule of Use Regulations Table) of the Zoning Ordinance allows for the proposed use with an Accessory Drive-up Window (Use Code 58: Accessory Drive-up Window) via Special Use Permit. As such this Development Plan Review opinion serves as an advisory to the Zoning Board of Review.

The project is also subject to the requirements of the Subdivision and Land Development Regulations including landscaping and stormwater requirements.

In accordance with Article VIII(B) (Waivers and Modifications: Waiver or Modification of Regulations) of the *Subdivision and Land Development Regulations*, the Planning Board has the authority to waive or modify one or more of the requirements for subdivision or land development approval contained in the *Subdivision and Land Development Regulations* if the Planning Board finds that:

- a. The waiver or modification is reasonable and within the general purposes and intents of the *Subdivision and Land Development Regulations*; and
- b. The 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.

Decision Deadline

Pursuant to the Zoning Ordinance and Subdivision and Land Development Regulations, there is no deadline for Planning Board decisions on Development Plan Review applications.

Review to Date

At the meeting of the South Kingstown Technical Review Committee (TRC) held on October 11, 2023, the TRC reviewed the 60 Old Tower Hill Road Development Plan Review application for the project located at 60 Old Tower Hill Road (AP 57-2, Lot 71) for a new restaurant and associated improvements at this location. Upon review and discussion with the applicant, the TRC motioned to grant conditional approval of the application with the following conditions, provided the conditions are addressed and the application is determined complete before scheduling with the Planning Board:

1. Provide confirmation of delivery plan (days/hours) and have designated loading area delineated on plans.
2. Solidifying a lighting plan – minimal needs plus night sky compliant, to be shown on plans.
3. Clearly articulating that the guardrail is intended to be replaced and the specifications for its replacement.
4. Dumpster enclosure details, matching the architecture of area and building, to be shown on future site plan.
5. Modifying the landscaping and showing it on plan.
6. Include the architecture for the building, the dumpster enclosure, and any future applications, on plans.
7. Details of any fencing proposed to be shown on the plan.
8. Solidifying the signage for both the restaurant and any traffic control measures.
9. Clarifying pedestrian movements and crosswalks, on plan.
10. Clarifying floor area as it relates to capacity, to determine parking requirements.

Said motion was made by Mr. Gorman, duly seconded by Mr. Conboy, and approved 6-0 (Aye – D. Bernier; M. Bradywood; M. Conboy; J. Gorman; L. Karp; J. Rabbitt).

The applicant submitted revised plans to the Planning Department on November 2, 2023 in an effort to address some of these items noted by the TRC.

Required Findings

In consideration of the waivers being requested for approval, the Planning Board needs to make affirmative findings that:

- A. The waiver or modification is reasonable and within the general purposes and intents of the *Subdivision and Land Development Regulations*; and
- B. The 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.

In accordance with Article IV.F(3) of the Subdivision & Land Development Regulations, prior to granting Development Plan Review approval the Planning Board shall find that:

- a. The granting of approval will not result in conditions inimical to the public health, safety, and welfare;
- b. The granting of such approval will not substantially or permanently injure the appropriate use of the property in the surrounding area or zoning district;
- c. The plans for such project comply with all the requirements of the Zoning Ordinance and the Subdivision & Land Development Regulations;
- d. The plans for such project are consistent with the Comprehensive Plan; and,
- e. Any conditions or restrictions that are necessary to ensure that these guidelines have been met have been incorporated into the written approval.

In regard to the Special Use Permit being considered, the Zoning Board must make the following findings in the affirmative in the granting of a Special Use Permit:

- a. That the special use is specifically authorized by this ordinance, and setting forth the exact subsection of this ordinance containing the jurisdictional authorization;
- b. That the special use meets all of the criteria set forth in the subsection of this ordinance authorizing such special use; and
- c. That the granting of the special use permit will not alter the general character of the surrounding area or impair the intent or purpose of this ordinance or the comprehensive plan of the town. In so doing, the board shall consider, whether or not satisfactory provisions and arrangements have been or will be made concerning, but not limited to, the following matters, where applicable:
 1. Ingress and egress to the lot and to existing or proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire, emergency or catastrophe;
 2. Off-street parking and loading areas where required, with particular attention to the items in subsection A.1., above, and the noise, glare or odor effects of the special use permit on adjoining lots;
 3. Trash, storage and delivery areas with a particular reference to the items in (1) and (2) above;
 4. Utilities, with reference to locations, availability and compatibility;

5. Screening and buffering with reference to type, dimensions and character;
6. Signs, if any, and exterior lighting with reference to glare, traffic safety, and compatibility and harmony with lots in the zoning district;
7. Required yards and other open space;
8. General compatibility with lots in the same or abutting zoning districts.

The Planning Board Advisory to the Zoning Board should consider whether the Planning Board agrees that the proposed project meets the above referenced findings in the affirmative and should reference any required special conditions the Planning Board feels are necessary in the granting of the Special Use Permit.

Draft Motions for Consideration

Draft Motion 1

“The South Kingstown Planning Board hereby approves the waivers associated with this application as requested and grants advisory Development Plan approval for the 60 Old Tower Hill Road application proposing to adaptively reuse the former restaurant at this location to a similar use that includes an accessory drive-up window with other associated site improvements on Assessor’s Plat 57-2, Lot 71, located at 60 Old Tower Hill Road, Gaspee Real Estate Partners, *applicant*, Gansett Group SK, LLC, *owner*. This advisory Development Plan approval is based upon the submitted plan set titled ‘*Proposed Site Plan Documents, Proposed Restaurant, 60 Old Tower Hill Road, Sheets C-101 through C-102, C-201, C-301, C-401, C-501, C-601 & C-602, C-701 through C-703; C-901 through C-903, dated October 20, 2023 with revisions through November 2, 2023, prepared by Bohler Engineering, 352 Turnpike Road, Southborough, MA 01772.*

This approval is based upon the following Findings of Fact and Conditions of Approval:

Findings of Fact – Requested Waivers

- A. The waivers requested and approved are reasonable and within the general purposes and intents of the *Subdivision and Land Development Regulations*; and
- B. The 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.

Findings of Fact – Development Plan Review

- C. The granting of approval will not result in conditions inimical to the public health, safety, and welfare.
- D. With the required Conditions of Approval, the granting of such approval will not substantially or permanently injure the appropriate use of the property in the surrounding area or zoning district.
- E. With the required Conditions of Approval, the plans for the project comply with all the requirements of the Zoning Ordinance and the Subdivision and Land Development Regulations.
- F. The plans for the project are consistent with the Comprehensive Community Plan.
- G. Any conditions or restrictions that are necessary to ensure that these findings have been met have been incorporated into this approval.


Findings of Fact – Special Use Permit Standards

- H. The special use is specifically authorized by the Zoning Ordinance, specifically Section 301 (Schedule of Use Regulations Table);

- I. The special use meets all of the criteria set forth in the subsection of this ordinance authorizing such special use; and
- J. The granting of the special use permit will not alter the general character of the surrounding area or impair the intent or purpose of this ordinance or the comprehensive plan of the town in consideration of the following characteristics:
 1. The project provides safe and sufficient automotive and pedestrian safety and convenience, traffic flow and control, and emergency access as it relates to ingress and egress to the Site and associated structures;
 2. The project provides sufficient off-street parking and loading areas that should not be reflective of a nuisance (*i.e.* effects from noise, glare or odor) to adjoining properties;
 3. The project provides sufficient trash, storage and delivery areas in conjunction with Items 1 and 2, above;
 4. The project has sufficient access to all required utilities required;
 5. The project provides sufficient screening and buffering that is appropriate for the surrounding development;
 6. The project provides signage and exterior lighting that should not adversely impact the surrounding area due to glare or traffic safety, and the project is compatible and in harmony with the surrounding zoning district;
 7. The project provides sufficient setbacks and does not require the dedication of any open space;
 8. The project is generally compatible with lots within the same or abutting zoning districts.

Conditions of Approval

1. Approval is conditioned upon the applicant obtaining the required Special Use Permit for the Accessory Drive-up Window use from the Zoning Board of Review.
2. Development of the site shall be in strict conformance with the approved site plan, including the revised landscape plan, unless amended by these Conditions of Approval.
3. The applicant shall obtain all required local and State permits prior to commencing construction and/or installation of site improvements.
4. Any proposed signage must comply with the requirements established by Article 8 of the Town of South Kingstown Zoning Ordinance.
5. Prior to any request for a Certificate of Occupancy, a RI registered Professional Engineer shall inspect the installation of site improvements and shall submit certification to the Administrative Officer of the Planning Board that the construction conforms to the approved plans.
6. Prior to any request for a Certificate of Occupancy, a RI licensed Landscape Architect shall inspect the installation of the landscape improvements and submit certification to the Administrative Officer of the Planning Board that the installation conforms to the approved plan and the planting standards of the South Kingstown Subdivision and Land Development Regulations.
7. The applicant shall guarantee all landscape materials depicted on the approved plan set for a period of one (1) year from the date of planting.
8. The applicant shall make the following modifications/revisions to the site plans prepared by Bohler Engineering:

- a. Primary landscape areas/island shall contain a minimum of 2" of sod/law behind proposed curb, sidewalk, patio and/or pavement. A detail shall be added to landscape sheet(s).
 - b. Symbol for handicap spaces shall be updated to show wheelchair in motion per ADA changes in law. 
 - c. The proposed dumpster detail on Sheet C-903 shall be revised to accommodate the side pedestrian door shown on site plan Sheet C-301.
 - d. Suitable plant material/landscaping shall be incorporated into the design of the proposed infiltration structure on the western most property line. The infiltrations basin may be modified to be a grass type installation with narrow stone infiltration trench to a sand bed.
 - e. The architectural elevations and renderings shall be added into the plan-set prepared by Bohler Engineering.
 - f. The proposed patio fencing shown on Bohler Engineering's detail sheet shall be modified to match proposed fencing shown on architectural renders prepared by McGeorge Architecture Interiors.
 - g. Proposed signage shown on architectural renders prepared by McGeorge Architecture Interiors shall be added to plans prepared by Bohler Engineering.
9. **And any other conditions deemed necessary by the Planning Board in consideration of this application..."**

Draft Motion 2

"The South Kingstown Planning Board, in consideration of the Conditions of Approval associated with the Development Plan Review approval for the project, hereby renders a favorable advisory to the Zoning Board of Review on the Special Use Permit request for the 60 Old Tower Hill Road project located on Assessor's Plat 57-2, Lot 71, to allow for an accessory drive-up window (Section 301, Use Code 58) for the proposed restaurant. In doing so, the Planning Board finds that the requirements and intent of the Community Comprehensive Plan, as well as the Zoning Ordinance, have been met, as outlined in the Development Plan Review decision."