

November 21, 2022

Frederick D Massie, Chair
Planning Board
Warren Town Hall
514 Main Street, Second Floor
Warren RI 02885

Re: 113, 119 and 125 Water Street, Warren & the Warren National Register Historic District

Dear Mr. Massie:

Preserve Rhode Island, the state's advocate for historic places, writes regarding proposal for Master Plan Approval - Comprehensive Permit Application at AP2, Lots 21-23, 113, 119 and 125 Water Street. The proposed project would demolish two buildings that contribute to the Warren Waterfront Historic District, listed in the National Register of Historic Places, replacing them with a new four-story building consisting of 17 residential units and 1 commercial unit and associated parking lot. The proposed project fails to comply with Warren's master planning and planning/zoning rules and should not be approved.

Historical and Architectural Significance: Listed in the National Register of Historic Places, the Warren Waterfront Historic District is rated at "state" level significance. The district includes 443 contributing residential, industrial, institutional, commercial, and maritime historic properties that range in date from 1743 to 1953, comprising a dense waterfront area continually developed since the 18th century. The National Register notes that: "Warren's waterfront district enjoys remarkable homogeneity of scale and character. Most of the buildings are made of wood and stand two or three stories high; masonry is more common for industrial, institutional, and commercial buildings. Street setbacks are generally consistent throughout the district: most buildings are sited on or near the front lot line." The nomination calls out the interplay of buildings, streets and spaces created over centuries of development that give Warren Waterfront its "compelling" presence – stating that "Warren Waterfront has a dynamic rhythm distinctly its own" calling out specifically the "the tightly serried buildings along Water Street."

Both buildings on the subject parcel are considered historic, contributing to the significance of the historic district when it was listed: The nomination describes:

119 Water Street: Commercial/Residential Building ca 1900 : A 2-story, end gable-roof building with an original 3-bay storefront with show windows flanking recessed center entrance and the entrance to the upper stories at the north end of the façade and symmetrical semi-octagonal oriel windows on the 2nd story. 119 Water Street is especially noted in the nomination for its unusually fine example of a circa

1900 storefront, an architectural feature that was once characteristic of this section of Water Street and now rarely survives.

113 Water Street: House ca 1865 : A 2-story house with stone foundation. Set gable end toward the street and well back from the street, this rectangular-plan building has irregular fenestration, a 1-story enclosed porch on the south elevation, and one off-center chimney. It may be an earlier house moved to this site.

Warren's commitment to its Waterfront Historic District: Since the Waterfront District was listed in the National Register almost 50 years ago in 1974, and expanded in 2003, Warren has made the historic character of this area a focus of its planning and zoning efforts. The Town has adopted both a demolition review ordinance and a waterfront overlay district – all designed to protect the unique sense of place and character of the area. Warren's planning and zoning ordinances seek to reinforce the existing scale, massing, and design quality in the district. The overlay district requires all development to be visually compatible with the surrounding area in terms of scale of buildings, façade materials, site features, dimensional requirements, setbacks, and building size. In addition, the overlay district spells out specific design requirements for projects in the area.

Demolition Review: The developer is seeking permission to demolish two buildings that contribute to the historic district but submitted information on only one of the structures – that deficiency in the developer's presentation needs to be remedied before the planning board, acting as the local review board under the state's affordable housing law, can render a decision. Boards are not required to act when information is insufficient. The project proponent doesn't get to pick and choose what buildings are considered historic – both buildings are specifically included in the National Register nomination as contributing to the historical significance of the district. If the project proponent intends to claim that the building was listed in the National Register by error or no longer retains its historic character, they need to document those claims, not just be silent about the property.

In reviewing the demolition proposal, the Town needs to determine that information submitted to support the lack of historic integrity or a case for financial hardship is credible. Once a building is demolished, it is gone forever, forever altering the character of the Warren Waterfront Historic District—so making sure decision-making follows verifiable and credible information and financial estimates is critical.

Structural Integrity: The developer has submitted statements from engineers that state that the foundation and first floor framing of 119 Water Street are in poor condition. Photos show a stone masonry wall and columns and floor joists with newer support elements added to replace deteriorated structural elements. The actual conditions are not known beyond an unsupported statement that they are "poor". The developer submitted a bid from J2Construct to reinforce the structure, lift the building off its foundation, construct a new concrete foundation, lower the building onto the new foundation, and re-establish utilities for an estimated cost of \$931,700. The described scope seems extreme for foundation repair typically needed to rehabilitate the historic structures. Remedial work on foundations is often a component of historic rehabilitation and the usual scope of work typically involves stone masonry repointing and repair, sill replacement, carpentry repair to reinforce deteriorated elements, installation of additional structural support columns and joists, and installation of water barriers to curtail moisture conditions. For a building of the size of 119 Water Street that the costs of such repair would

approach \$1 million is not credible. The submissions from the developer and his experts cannot be taken at face value and need review by independent third-party professionals experienced in the rehabilitation of historic structures.

Hardship: Warren’s demolition ordinance allows applicants to make a case for financial hardship. When assessing hardship, consideration of expenditures alone will not provide a complete picture of the financial condition – it’s only one side of the development equation. With respect to an income producing property, financial feasibility is measured by assessing a particular course of action on a property’s overall value of return. To fully support a claim of hardship there should be findings based on “competent evidence” regarding the structural integrity of the building, which includes estimated costs of rehabilitation and the projected market value of the property after rehabilitation. In this case, it seems the developer started his discussion assuming that both properties would be demolished rather than assessing the feasibility of retaining the historic properties, settling on a one-sided argument that it’s too expensive to conduct the assumed repairs that have been submitted. To date, evidence provided by the developer to demonstrate financial hardship is insufficient and not credible.

Federal Investment Tax Credits: Many historic buildings in Rhode Island have been reused for affordable housing, often using the Federal Investment Tax Credit available to subsidize the rehabilitation of properties listed in the National Register. Historic tax credits are available for income-producing properties, help to enhance feasibility, and increase resources to preserve and reuse historic structures. No assessment of the financial feasibility of rehabilitating the historic building will be complete without consideration of that subsidy.

New construction in historic district: Warren’s Waterfront Historic District is comprised of hundreds of buildings that are densely packed and detached; most are two stories with occasional three-story structures and rarely four stories. Along Water Street itself, the buildings are predominantly gable end to the street, detached and two stories. Standards for introducing new construction into historic areas require that the size, height, scale, massing and architectural features be compatible. New construction should be distinct from the old. In historic districts, protecting the historic setting and context of historic properties, including the degree of open space and building density, must be considered. Historic relationships between buildings should be protected and contributing buildings in the district should not be isolated from one another by the insertion of new construction.

The proposed new construction is a single mass four stories high encompassing the entire frontage of historic lots that are combined. As such it would introduce a property into the heart of Warren’s Historic District that is out of scale and has radically different massing from the surrounding area. In Rhode Island and elsewhere, there are many examples where introducing new buildings into historic districts have been executed with attention to compatibility, but this proposal makes little gesture to understanding the character and sense of place into which it will intrude. Whether as a compliment to historic buildings preserved and reused on site; or if demolition is permitted, Warren should require any new construction that will fit the district’s character.

The project, even though it is for affordable housing, must conform to local planning and zoning rules: The state’s affordable housing statute clearly places the burden on the applicant to demonstrate that the project meets local planning and zoning requirements. In this case, however, it seems that the project is being presented with the implication that somehow because the project includes affordable housing, the

proposal does not have to conform to local planning and zoning. That's not the way the state's affordable housing law works: the state law provides an appeal to the state's affordable housing review board when projects that are consistent with local zoning and planning have been unfairly denied or conditioned. All local zoning and planning rules apply – the law simply requires that they are applied fairly and evenly. In other words, the law mandates that Warren's decision making will be just as even and fair to an affordable housing project as to a proposal for luxury housing.

The state law does not provide special relief for affordable projects: To approve this affordable housing project, the planning board would need to make “a positive finding supported by competent evidence” that the project is either in compliance with the local comprehensive plan and standards of zoning or waive local concerns, finding that affects of such relief granted do not outweigh Warren's need for affordable housing. The planning board would need to find that: “There will be no significant negative impacts on the health and safety of current or future residents of the community, in areas including, but not limited to, safe circulation of pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability of potable water, adequate surface water run-off, and the preservation of natural, historical or cultural features that contribute to the attractiveness of the community.” The state law specifically states that the local review board (in this case Warren's Planning Board) has all the usual powers “to issue permits or approvals that any local board or official who would otherwise act with respect to the application, including, but not limited to, the power to attach to the permit or approval, conditions, and requirements with respect to height, site plan, size, or shape, or building materials, as are consistent with the terms of this section.” The planning board may deny the request for the comprehensive permit “if the proposal is not consistent with local needs including, but not limited to, the needs identified in an approved comprehensive plan, and/or local zoning ordinances and procedures promulgated in conformance with the comprehensive plan”. The town is obliged to treat this proposal fairly and evenly, applying its local zoning ordinances on affordable housing just as it does to non-affordable projects.

CRMC review: The applicant states that the project will require assent from the Coastal Resources Management Commission (CRMC). With regard to permits in National Register historic districts, CRMC consults with the Rhode Island Historical Preservation and Heritage Commission (RIHPHC) before issuing permits. Since the project proposes to demolish two buildings that are listed in the National Register while proposing new construction that is not compatible in terms of size, height, scale, massing, and design with the surrounding historic district, when CRMC review commences the RIHPHC will most likely make a finding of “adverse effect” and recommend CRMC not issue the permit. Upon a finding of adverse effect, the applicant may be asked to undertake a study of alternatives that minimize, mitigate or eliminate the harm to the historic district. Alternatives would include reusing the historic structures and redesigning the new construction to be compatible with the historic area. If any demolition were to occur prior to seeking CRMC approval, it would likely be seen as “anticipatory demolition” to avoid historic preservation reviews, poisoning the permit process.

Recommendation: As currently proposed, the project fails to meet Warren's Demolition and Waterfront Overlay District requirements. The Planning Board should invite the project proponent to consider the requirements of these local rules, amend their proposal and come back when they are closer to being in conformance with local objectives. With state historical review pending, it's better that the project proponent faces the historic preservation review now rather than later.

As proposed the project is a radical departure from the kind of development that Warren seeks in its waterfront zone – not because of its affordable housing component (which is laudable), but because of the proposed demolition of historic buildings and introduction of a new building that is out of character with the historic area. The project proponent can do better to meet the clear requirements of local historic preservation review and the waterfront zone. The Planning Board should be as firm about its commitment to protecting the Warrant Waterfront Historic District as it is in support of increasing the availability of affordable housing in town.

Sincerely,

Valerie Talmage
Executive Director

cc: Jeff Emidy, RIHPHC