



# Town of South Kingstown, Rhode Island

## PLANNING DEPARTMENT

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### Matunuck Beach Road Condominiums

#### **Multihousehold Land Development Project – Preliminary Plan Draft Motion**

**Motion:** “The South Kingstown Planning Board hereby grants Preliminary Plan approval to Matunuck Beach Road Condominiums, a twelve (12) unit major multi-household land development project, submitted as a Comprehensive Permit, containing twelve (12) single-family dwelling units, with eight (8) of these units being market-rate housing units and four (4) dwelling units being deed-restricted for low- and moderate-income occupancy, located on Matunuck Beach Road, Matunuck Beach Road Partners, LLC, owner/applicant.

This approval is based upon plan set entitled “*Permitting Submission – Matunuck Beach Condos*, Matunuck Beach Road, South Kingstown, Rhode Island, Assessor’s Plat 92-2 Lot 56, Sheets 1 through 14, dated July 1, 2021 with revisions through February 17, 2022 and May 11, 2022 (Sheets 11 & 12), prepared by DiPrete Engineering, Two Stafford Court, Cranston, RI 02920. This approval is also based on the landscaping plans entitled “*Landscape Plans*, Matunuck Beach Condominium, located at Piping Plover Drive, Assessor’s Plat 92-2, Lots 56, South Kingstown, Rhode Island, dated August 11, 2021 with revisions through May 11, 2022, prepared by John C. Carter & Co., Inc., 960 Boston Neck Road, Narragansett, RI.

#### **Findings of Fact**

- A. The applicant qualifies as an eligible entity and the project is an eligible project pursuant to R.I.G.L. § 45-53-4, as a for profit developer dedicating at least 25% of the units to be developed as low and moderate income housing units;
- B. The proposed development is consistent with local needs as identified in the local comprehensive community plan, and will address the need for affordable housing development within the community;
- C. The three (3) low and moderate income (LMI) housing units are integrated throughout the development, are compatible in scale and architectural style to the market rate units within the project, and will be built and occupied prior to, or simultaneous with, the construction and occupancy of market rate units;
- D. The proposed land development project is in compliance with the standards and provision of the South Kingstown Zoning Ordinance and Subdivision and Land Development Regulations, where varied the local concerns that have been affected by the relief granted do not outweigh the state and local need for LMI housing;
- E. There will be no significant negative environmental impacts from the proposed development as shown on the plans, with all required Conditions of Approval;
- F. 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 or 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;
- G. The proposed land development project has adequate and permanent physical access to a public street, namely Matunuck Beach Road; and

- H. The land development project, 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.

**Findings of Fact, Requested Relief**

The following Findings of Fact and Requested Relief were approved and incorporated in the Conceptual Master Plan decision dated March 24, 2021. No additional waivers or relief has been requested.

- I. The proposed development will be in compliance with the standards and provisions of the South Kingstown Zoning Ordinance and Subdivision and Land Development Regulations and/or where expressly varied or waived local concerns that have been affected by the relief granted do not outweigh the state and local need for LMI housing. In view of the state and local need for LMI housing the following waivers, variances and exceptions are hereby granted:
  - i. **Zoning Ordinance - Section 301 – Schedule of Use Regulations Table, Use Code 12.1 – Multi-Household Land Development Project.** A Multi-Household Land Development Project is not an allowed use within the R20 Zoning District. In addition, it should be noted that a single multi-family (3 or more units) structure is also not allowed within the R20 District.
  - ii. **Zoning Ordinance - Section 401 – Schedule of Dimensional Regulations, Density.** The Yield Plan shows the maximum yield of the subject parcel under conventional zoning requirements is six (6) units; the applicant is proposing twelve (12) units.
  - iii. **Subdivision & Land Development Regulations - Article IV, Section H(9), Multi Household Dwellings, Supplementary Standards.** Distances between structures is required to be 50'; the applicant is proposing a separation of 25'.
- J. Because multi-family housing is not allowed in the R-20 district, there are no specific setbacks associated with this proposed use. However, yard setbacks for single-family housing in the R-20 District are as follows:

Front	35 ft.
Corner	25 ft.
Side	15 ft.
Rear	35 ft.

- K. No other relief is granted and all local ordinances and regulations not specifically mentioned herein shall be enforced in their entirety. Any subsequent revision to the plans that require additional or more expansive relief must be approved by the Planning Board in accordance with state law and Section 509 of the South Kingstown Zoning Ordinance as amended.

**Conditions of Approval**

The Planning Board finds that the conditions imposed in the section are necessary in order to properly address local concerns as previously stated herein. The Board finds that such conditions will not render it impossible to proceed with the proposed project without financial loss, within any limitations that may be set by a subsidizing agency of the government. To the extent that such conditions may render the project infeasible, the Board finds that the local concerns in imposing the same outweighs the potential benefits of the affordable unit that has been proposed and that said conditions are 'consistent with local needs' and said conditions are not designed or intended to exclude low and moderate income residents from the community or to discourage or frustrate the likelihood of success of the project as further described below and thus are reasonable in view of the state need for low and moderate income housing;

and similar conditions are applied on a case by case basis and as equally as possible to both subsidized and unsubsidized housing as further described below.

1. This approval is limited to twelve (12) units.
2. The approval is based on the development of the proposed land development project in a single phase.
3. Approval is based upon the provision of 25% or three (3) subsidized housing units available for LMI residents. The LMI dwelling units will be sold to households earning a maximum of 100% of the Area Median Income (AMI) below 100% of the Area Median Income and be deed restricted for a period of thirty (30) years.
4. The three (3) required LMI Housing units have been designated in Building 1, Unit 2; Building 2, Unit 4; and Building 6, Unit 12 and will have identical exterior construction to all units within the development and will contain exactly the same square footage as the market rate units.
5. The construction sequence of the LMI units shall not exceed the construction of three (3) market-rate units for every one (1) LMI Housing unit.
6. The LMI units must meet the criteria for subsidy and deed restrictions such that the units meet all state requirements to be counted toward the LMI housing stock within the Town.
7. As part of the final submittal, the applicant shall submit additional final legal documents including, but not limited to, a final 'Monitoring Agreement' or 'Memorandum of Understanding' from a certified Monitoring Agent, a final draft 'Deed Restriction' and draft lease agreements for any rental units, that will insure that affordability guidelines will be met. Such documents shall be subject to the review and approval of the Town's Special Legal Counsel and the Administrative Officer.
8. The monitoring agent for the project shall be certified and qualified by the Rhode Island Housing and Mortgage Finance Corporation.
9. Fair Share Development Fees for both open space and school facilities 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.
10. The applicant shall secure a Soil Erosion, Run Off and Sedimentation Control Permit from the Town's Department of Public Services encompassing the overall limits of construction prior to commencing construction and/or grading activities.
11. The final plan shall clearly identify the proposed limits of disturbance and incorporate best management practices as outlined in the Rhode Island Soil Erosion and Sedimentation Control Handbook. Particular attention should be directed to the limits of disturbance in the vicinity of the level spreader to the south of the driveway.
12. All utilities (*i.e.*, electric, telephone and cable services) shall be installed underground.
13. The applicant shall secure a Physical Alteration Permit, and if necessary, a Tree Permit from the Department of Public Services prior to the commencement of work within the public right-of-way of Matunuck Beach Road.
14. The applicant shall post financial security in the amount of **\$1,500,000** for all public improvements and erosion and sediment control as prescribed by Town Regulations. The applicant shall also including sufficient financial surety to insure the proper installation of all drainage and landscape features, as well as, sufficient funds to insure stabilization of the site in the advent that any one component (*i.e.* grading, drainage, soil stabilization, turf establishment) of the project is left unfinished by the developer. The type of financial security shall be reviewed and approved by special legal counsel in consultation with the Director of Finance. In association with the posting the financial surety the applicant shall post sufficient

inspection fees associated with installation of the projects infrastructure (i.e., drainage, landscaping, soil and erosion control, roads/driveways etc.).

15. Prior to the initiation of site disturbance activities, the applicant shall attend a pre-construction conference and shall pay a project inspection fee as determined by the Planning Board.
16. If the occupancy of the units is proposed to be phased, the applicant shall submit a plan to the Planning Board for approval as it relates to the completion of all proposed improvements (landscaping, storm drainage, sidewalks/walkways, rain gardens, landscaping, fencing etc.). Under a phasing scenario, the applicant shall provide financial security for any unfinished improvements, as mentioned above, prior to the issuance of any certificate of occupancy. Under no circumstance shall a Certificates of occupancy be issued for any unit until all of the projects drainage improvements and the proposed roads/driveways binder course have been installed, inspected and approved by the town in consultation with the Town Engineer and Administrative Officer.
17. Prior to the issuance of any certificates of occupancy, the applicant shall submit an as-built for all improvements to the site. The as-built shall show building locations, sidewalks/walkways, parking areas, pavement edges/layout, drainage structures including inverts, location of underground utilities and on site waste-water treatment systems (OWTS). In addition to providing an as-built for the projects improvements the applicant shall also provide an as-built survey to demonstrate that the applicant/developer has achieved the proposed and approved sightlines/stopping distances associated with the project curb cut and that the necessary tree/brush removal and grading has be completed per plans.
18. As part of the Final submittal, the applicant shall submit final legal documents in support of the development for review and approval by the Administrative Officer and the Town's Special Legal Counsel. The documents shall address the use, restrictions on use, ownership, maintenance and replacement of commonly owned infrastructure components including driveways, underground utilities, above ground utility structures and open space as well as the specific deed restriction language required as conditions of this approval.

This decision may be appealed according to § 45-53-4 and 45-53-5 of the Low and Moderate Income Housing Act.