

Tiverton Planning Board



343 Highland Road • Tiverton, Rhode Island 02878

(401) 816-5631

NOTICE OF PRELIMINARY PLAN DECISION

Application: Pocasset Reserve f/k/a Tiverton Heights

Owner/Applicant: Tiverton Heights Limited Partnership/
Harkins Homes LLC
1907 East Main Road
Portsmouth, RI 02871

Site Location: 797 Fish Road
Plat 110/Lot 207
N/S Souza, W/S Fish Road, & East of Main Road
R-60 Zoning District

Background:

The application was submitted on April 6, 2021 and was certified complete on June 3, 2021. An ADHOC Technical Review Committee convened on July 30, 2021. The Public Hearing for the Application was opened on February 15, 2022.

February 15, 2022, Hearing

William Landry, Esq., appeared on behalf of the applicant. He stated that several years had elapsed between Master Plan Approval and the submission of the Preliminary Plan because a great deal of engineering was required to attain a Wetlands Alteration Permit from the Rhode Island Department of Environment (RIDEM). Mr. Landry explained that the original plan, dating back to 2016, called for two crossings of the Sin and Flesh Brook, a stream which runs through the center of the 136 acre property. RIDEM requires that the stream be undisturbed except for a gravel emergency access road. Mr. Landry further stated that this change added 11 acres for open space and cut down on the amount of paved roadway. The project is now configured into 2 clusters of buildings, one at the west side of the lot and one at the east side. The east side of the parcel is Phase 1 and includes 129 housing units; the west side will be Phase 2 and will include 146 residential units. All together there will be 106 single family houses, 44 duplex units, 32 townhouse units, and 81 garden style condominiums. Mr. Landry called on Jeremy Lake, Principal, Union Studio. Mr. Lake referred the Board to a document titled Tiverton Heights: Preliminary Architecture Package, March 30, 2021,

containing architectural renderings of the different building designs. He noted that the largest building proposed in the Master Plan submission had now been replaced by several smaller buildings to be built parallel to Fish Road (Phase 1). Mr. Landry called on Thomas Principe, PE, Principe Engineering, Tiverton, RI. Mr. Principe made brief remarks describing engineering features needed to service the project with potable water provided by North Tiverton Fire District and sewer provided by the Tiverton Waste Water District. He discussed the RI pollution discharge elimination system ("RIPDES") permit and the need to comply with Rhode Island Stormwater Discharge Manual as well as erosion and sediment control regulations. He also stated that all federal, State, and local regulations would be fully met. Mr. Landry called on Todd Brayton, PE, Bryant Engineers, to make comments about the projects impact on vehicular circulation inside the project and on abutting roadways. He said that a curb cut on Fish Road already exists and Physical Alteration Permit for a curb cut on Souza Road was granted by the Rhode Island Department of Transportation ("RIDOT"). He explained that a single road will service Phase 1 and another single road will service Phase 2. Mr. Brayton characterized traffic patterns on Souza Road, Fish Road, and Main Road as well as the intersection of Souza Road, Main Road, and Schooner Drive, by referencing American Association of State Highway Transportation Officials ("AASHTO") Level of Service classification system ("LOS"). This subjective measure determines motorists' comfort level with roadways. He concluded that the above referenced roads are generally adequate to handle the new traffic generated by the project. He also referenced the Institute of Traffic Engineers' trip generation manual as a source of determining how much traffic is likely to increase from the proposed project. Chairwoman Gill expressed concern that despite the time lag between the approval of the Master Plan on December 6, 2016, and how the applicant had not fully complied with the 11 conditions on Master Plan of Approval. She called the applicant's attention to several conditions which had not been met or fully met. For example, Condition number 2, the Tiverton Fire Chief of the North Tiverton Fire District must agree that there is adequate water volume and water pressure for fire suppression; Condition 3, the Tiverton Police Chief and Tiverton Fire Chief must agree that a traffic circulation plan addresses all circulation safety issues; Condition 5, the applicant must provide an Infrastructure Plan to be provided at the Preliminary Plan stage; Condition 6, the Preliminary Plan submission must include a plan showing the location of all proposed LMI units; Condition 7, the proposed project must have a name that is not already in use. Mr. Landry responded that all conditions will be met during the Preliminary Plan stage.

Ms. Eva made a motion to extend the timeclock to April 20, 2022. The motion was seconded by Mr. Hardy. The motion passed 7-0-0. Voting in favor: Mr. Bramante, Ms. Eva, Ms. Gill, Ms. Gomes, Mr. Hardy, Ms. Shea, and Ms. Souza-Viera.

Ms. Eva made a motion to continue the Public Hearing to April 5, 2022. The motion was seconded by Mr. Hardy. The motion passed 7-0-0. Voting in favor: Mr. Bramante, Ms. Eva, Ms. Gill, Ms. Gomes, Mr. Hardy, Ms. Shea, and Ms. Souza-Viera.

April 5, 2022, Hearing

Mr. Principe pointed out that through the DEM permit process they were able to eliminate a central development. Included in the central development were 2 bridges and wetland crossings thus opening up 11 acres of usable open space. A mile of roadway and 3 drainage basins were also eliminated. Mr. Principe mentioned that there is sewer on the West side of the development but

not on the easterly portion of the development. The proposal from the applicant is to run a low-pressure line on the easterly side that would run to the west side. All of the west side of the development will drain by gravity and has been reviewed by Tiverton Waste water and approved by the City of Fall River. He mentioned that there is a 16-inch water main and Pare Corporation, who was hired by the Town to provide a peer review study at Master Plan, indicated that there would be adequate pressure for the residences. Mr. Hardy referenced a letter from the former fire chief of Tiverton saying that the study from Pare was not sufficient and was highly critical. Mr. Principe said that per Fire Marshal, Lt. Daniel Murphy, there need to be more fire hydrants throughout the development. Jeremy Lake of Union Studios was then called on to give his presentation to the Planning Board. Mr. Lake gave an overview of the layout of the easterly portion (Phase 1) and the westerly portion (Phase 2) and said that in the new plans Phase 1 will have 70% two-bedroom homes and 30% three- bedroom homes, but overall the project will be 60% two-bedrooms and 40% three bedrooms.

Jay Edwards asked the applicant what would be done to notify potential renters and home buyers about the blasting that goes on in the quarry across the street. Mr. Landry said at minimum there would be a disclosure in the rental/sales agreement with potential residents. He also said that there will be a seismic survey done. Mr. Rapoza asked what the applicant was planning to do to ensure that the units being built were being built to withstand the blasting across the street. Mr. Landry stated the buildings will be built to code. Mr. Rapoza asked Mr. Principe if there was a way to test the shock that is delivered after a blast. Mr. Principe said there were ways to test that. Mr. Landry mentioned that they were going to ask Tiverton Materials about some impact statements they may have in regards to their blasting. Mr. Hardy said that he believes that the seismic impact has to be studied to ensure the safety of future residents.

Members of the public to speak:

Debra Janick
Sally Black
Peter Moniz
Albert Cormier
Renee Jones
Susan Anderson.

Mr. Hardy brought up the four areas which would need to be peer reviewed: environmental, traffic, potable water. In addition, he called for a seismic impact study. Mr. Harkins said that although it has been some time since the peer reviews were done for environmental, water, and traffic, they are still valid. Mr. Hardy said with the new update to the traffic plan that it would need to be looked at closer.

Mr. Bramante made a motion that all new changes to the traffic study would be peer reviewed. Mr. Shriver seconded the motion. The motion passed 6-0-0 voting in favor of the motion were, Mr. Bramante, Ms. Gomes, Mr. Hardy, Mr. Rapoza, Ms. Shea and Mr. Shriver.

Mr. Harkins stated that they have been reaching out to Pare to do a hydrologic study for water and have not heard back. Mr. Landry said it could be because they did work on the Master Plan for the

Town, they could have a conflict now working for the applicant. Mr. Hardy asked if there could be a new company to do the study because the former fire chief did not approve of their work. Mr. Landry didn't agree that another study should be done because a former fire chief didn't approve of the study. Mr. Romano suggests that Pare respond to the letter from the former Fire Chief and look at the new issues since 2016 that would have an impact on the water system.

Mr. Hardy made a motion to have Pare address all the issues addressed by Chief Lloyd in his letter and any new updates that may impact the water system. Peter Bramante seconded the motion. The motion passed 6-0-0, voting in favor of the motion were, Mr. Bramante, Ms. Gomes, Mr. Hardy, Mr. Rapoza, Ms. Shea, and Mr. Shriver.

Mr. Bramante made a motion to extend the timeclock to June 14, 2022, seconded by Mr. Rapoza. The motion passed 6-0-0, voting in favor of the motion were, Mr. Bramante, Ms. Gomes, Mr. Hardy, Mr. Rapoza, Ms. Shea, and Mr. Shriver.

June 21, 2022 Hearing

Chair, Stuart Hardy, reviewed the status of the application, peer review studies, and items that need to be addressed at future hearings. Testimony for the applicant was given by Todd Brayton, PE, Bryant Associates. The applicant's witness responded to questions from the Board. Mr. Brayton also responded to comments from the following members of the public:

Jay Edwards, 143 Merrit Avenue
Carol Herman, Main Road
Deborah Gee, 15 Evans Avenue
Gail Lawrence, 108 Long Pasture Road
Jamie French, 81 Hobson Avenue
Deb Janick, 374 Judson Road
Michael Turner, 148 Randolph Avenue
Susan Anderson, 1137 Main Road
Sarah Trowbaugh, 8 Bridgeport Road
Renee Jones, 161 Highland Road.

The applicant also presented testimony from Karen Beck, Registered Landscape Architect, Principe Engineering. Ms. Beck also responded to comments from the Board and from the public. Public comments were received from:

Michael Turner, 148 Randolph Avenue
Jamie French, 81 Hobson Avenue.

A motion was made by Ms. Eva to extend the Timeclock to September 14, 2022, the motion was seconded by Mr. Hardy. The motion passed unanimously 5-0-0. Those voting in favor were Ms. Eva, Ms. Gomes, Mr. Hardy, Mr. Rapoza, and Ms. Shea.

A motion was made by Mr. Hardy to continue the Public Hearing to August 2, 2022, the motion was seconded by Ms. Eva. The motion passed unanimously 5-0-0. Those voting in favor were Ms. Eva, Ms. Gomes, Mr. Hardy, Mr. Rapoza, and Ms. Shea.

August 2, 2022, Hearing.

Michael Dion, PE, BL Companies presented his Traffic Report to the Board. BL Companies was retained by the Town of Tiverton to conduct a peer review of traffic impact information and analyses submitted in support of the Tiverton Heights proposal. The work included review of the following documents: Traffic Impact analysis, Tiverton Heights, Bryant Associates, January 2016; Traffic Impact Analysis, Tiverton Heights, Bryant Associates, Revised August 2020; RIDOT Physical Alteration Permit Application review letter, October 21, 2020; Tiverton Materials letter to Planning Board, November 1, 2021; and Supplemental Traffic Memorandum, Tiverton Heights, Bryant Associates, April 5, 2022. Todd Brayton, PE, Bryant Associates, was present on behalf of the applicant to answer questions that Mr. Dion brought up in his presentation.

Town Administrator Christopher Cotta spoke and informed the Board that Town reached out to RIDOT to talk about the developments on Main Road, Souza Road, and Fish Road and dialogue has been started with them to have them give their input on traffic in these areas.

Members of the public to speak:

Jay Edwards, 143 Merit Avenue
Jamie French, 81 Hobson Avenue
Susan Anderson, 1137 Main Road
Laureano Costa, 911 Fish Road.

Mr. Hardy made a motion to extend the Time Clock to October 5, 2022, and continue the public hearing to October 4, 2022, Mr. Shriver seconded the motion. The Motion passed unanimously 7-0-0. Voting in favor were Mr. Bramante, Ms. Eva, Ms. Gomes, Mr. Hardy, Mr. Rapoza, Ms. Shea, and Mr. Shriver.

October 4, 2022, Hearing

Timothy Thies of Pare Corporation gave an overview of his updated Hydraulic Evaluation Letter-dated September 9, 2022. Lt. Daniel Murphy, Tiverton Fire Marshal, gave his comments on the water study and offered his expert opinion.

Members of the public to speak:

Jamie French, 81 Hobson Avenue
Susan Anderson, 1137 Main Road.

A report that was requested by School Superintendent, Dr. Peter Sanchioni, from RGB Architecture Company, about the impact from the development on the Tiverton School System. That August 22, 2022 report was presented by Mr. Hardy.

Mr. Hardy read two emails from Superintendent Sanchioni, addressed to Town Administrator Christopher Cotta and Councilman Jay Edwards, regarding school bus operation in the Town of Tiverton. Mr. Edwards, 143 Merit Avenue, made comments about the school bus subject.

Mr. Harkins stated that the name of the development has changed from Tiverton Heights to Pocasset Reserve.

A motion was made by Ms. Eva to extend the Timeclock to November 15, 2022, the motion was seconded by Mr. Rapoza. The motion passed unanimously 6-0-0. Voting in favor of the motion were: Mr. Bramante, Ms. Eva, Mr. Hardy, Mr. Rapoza, Ms. Shea, and Mr. Shriver.

Ms. Eva made a motion to continue the public hearing to November 1, 2022. The motion was seconded by Mr. Hardy. The motion passed unanimously 6-0-0. Voting in favor of the motion were: Mr. Bramante, Ms. Eva, Mr. Hardy, Mr. Rapoza, Ms. Shea, and Mr. Shriver.

November 1, 2022, Hearing

Christopher Harkins, owner, William Landry, Esq., and Jeremy Lake, PE, Union Studios, were in attendance. They each presented additional information and responded to questions.

Andrew Michaud, PE, Geisser Engineering, presented the seismic study he prepared and which had been distributed to the Board. His study concluded that the blasting activity at Tiverton Materials will not have an adverse effect on the buildings at the Pocasset Reserve.

Dr. Peter Sanchioni, Tiverton Superintendent of Schools, along with Greg Noyes, First Student Bus Company, addressed questions concerning bussing, student population and class size. The applicant agreed to provide an area within the both the Fish Road and Souza Road entrances for the school buses to pick up students.

Members of the public to speak:

Jamie French
Peter Moniz
Andrew Silvia.

Mr. Hardy made a motion to approve the findings of fact as presented in the October 26, 2022 Memorandum from Interim Town Planner/AO Ashley Sweet as well as the conditions of Preliminary Plan approval, as amended during the meeting. He further moved to grant conditional Preliminary Plan approval and for Final Plan Approval to be granted by the Administrative Officer, if appropriate under R.I. Gen. Laws § 45-23-43. The motion was seconded by Ms. Gomes. The Motion passed 4-1-0. Voting in favor of the motion were: Mr. Bramante, Ms. Gomes, Mr. Hardy, and Ms. Shea. Ms. Eva voted against the motion.

Decision:

Based on evidence submitted, testimony received, and conditions imposed, and in accordance with the requirements of Article XXI, Section 7.b, of the Tiverton Zoning Ordinance, the Tiverton Planning Board hereby makes the following findings of fact:

1. The proposed development is consistent with local needs as identified in the Tiverton Comprehensive Community Plan, and in particular, the affordable housing plan as contained within the housing chapter. The proposed development is consistent with local needs as identified in the Tiverton Comprehensive Community Plan, and in particular, the affordable housing plan as contained within the housing chapter. The Town of Tiverton Comprehensive Plan (2018) contains a Housing Element that identifies condominium and multi-family development as a desirable means of providing housing (affordable and market rate) in this area of Town. The land that comprises this application is in close proximity to highway access as well as public transit access. The project is located in an R-60 zoning district, which is identified in the Comprehensive Plan as an appropriate location for multi-family, townhouse, and condominium style developments. The Comprehensive Plan suggests that the Town should focus on the development of multi-family type development as a way to provide affordable units, and as an alternative housing style to single-family homes.
2. The proposed development is in compliance with the standards and provisions of the Town's zoning ordinance and subdivision 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 low- and moderate-income housing. The applicant has requested a waiver on density to permit up to, but no more than, 275 units and a waiver for multiple residential buildings on a single lot. The density bonus provided is a waiver from Article V, Section 1, of the Tiverton Zoning Ordinance. The construction of multiple residential units on a single lot is a waiver from Article V, Section 2.b. These waivers are appropriately granted as the proposed development is consistent with the Comprehensive Plan and local concerns have been addressed to a degree that the relief granted does not outweigh the state and local need for low-and moderate-income housing.
3. All low- and moderate-income housing proposed are integrated throughout the development, are similar 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 occupation of the market rate units. The applicant has provided a sheet within the Union Studio Architectural Design set that identifies the distribution of LMI units throughout the development. As proposed, the units are integrated throughout the development.
4. There will be no significant environmental negative environmental impacts from the proposed development as shown on the final plan, which incorporates all prior conditions for approval. The applicant has provided evidence on the record by way of expert witness testimony and written report that there will be no significant negative environmental impacts as a result of the proposed development. The Master Plan approval for this project included the condition that the applicant adopt environmental management measures that meet or exceed state and Tiverton standards in such areas as stormwater management, wetland protection, protection of habitats of species of state concern or species otherwise listed by the U.S. Environmental Protection Agency as threatened or endangered. The Planning Board adopts this same condition of approval for the

Preliminary Plan approval and requires the applicant to provide State approvals for stormwater prior to Final Plan approval.

5. 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, provision of emergency services, sewerage disposal, availability of potable water, adequate surface water runoff, and the preservation of natural, historical, or cultural features that contribute to the attractiveness of the community. The applicant has provided evidence on the record by way of expert witness testimony and written report that there will be no significant negative impacts on the health and safety of current or future residents. The application has been reviewed and approved by the Fire Marshal. The project will be connected to public water and sewer for potable water and waste management. The applicant has provided information related to the availability of potable water for the site and this information has been peer reviewed to determine that the site has adequate access to potable water. The applicant is required to obtain an approval from RIDEM for all stormwater management components of the application prior to Final Plan approval. The applicant has provided a traffic study, which was peer reviewed by a traffic engineer selected by the Town. The peer review found that the applicant's traffic study was prepared in accordance with generally accepted methods and procedures and found that there are no significant traffic issues expected as a result of the development.

6. The proposed development will not result in the creation of individual lots with any physical constraints to development such that building on those lots would be impracticable. This plan does not include a subdivision of the land. The units will all be contained on one parcel and the current lot has adequate and permanent physical access to Fish Road, Linda Road, and Souza Road. The development will have access to an internal circulation network from Souza Road and Fish Road. As presented, there are no physical constraints to development.

Conditions of Approval

In addition to the above, the following conditions of approval are imposed upon the Preliminary Plan and must be satisfied prior to Final Plan approval:

1. Provide an infrastructure plan showing all infrastructure and the phasing of all infrastructure as construction occurs.
2. All LMI units shall be integrated throughout the entire development, within each construction phase, and be compatible in scale and architectural style to the market rate units. LMI units must be built and occupied prior to, or simultaneous with, the construction and occupancy of market rate units.
3. Provide a letter from the monitoring agent accepting responsibility for monitoring the LMI units.
4. Interior sidewalks shall be concrete, not asphalt.

5. Landscape Plan shall incorporate the Bryant Associates recommendation for cutting vegetation near access/egress roads to improve sight distance.

6. The applicant will extend the concrete walkway along the Fish Road north to the property line. The applicant will provide a concrete walkway/sidewalk west to the property line on Souza Road from their site entrance.

7. Show location of the mailbox kiosks, with safe pedestrian access.

8. A written disclosure, countersigned by the initial buyer, must be made to potential buyers that the Condominium Association (not the Town) is responsible for maintenance of the roads, sidewalks, streetlights, snowplowing, trash pick-up, detention basins & stormwater management structures, water & sewer pipes and pumps, recreational facilities & common land, as per DPW Director Roger's suggestion.

9. In addition to any notice provided in the condominium offering documents, a written disclosure, as a stand alone sheet countersigned by the initial buyer, must be presented to buyers placing them on notice that an active quarry, with possible vibrations from blasting, is located at 810 Fish Road. This written disclosure shall be recorded in the Tiverton Land Evidence Records.

10. Of the 275 approved residential units, no more than 110 units may be 3-bedroom units. All others must be one or two-bedroom units. No units in excess of three bedrooms are permitted.

11. Enter into an agreement with the North Tiverton Fire District that authorizes the District to maintain the fire hydrants within the development under the condition that the applicant or its successor pays for the costs for the labor, equipment, and materials necessary to provide this service.

12. All waivers previously granted at the Master Plan stage of review are granted as part of the Preliminary Plan approval To include Article V, Section 1, of the Tiverton Zoning Ordinance as to density, and Article V, Section 2.b, of the Tiverton Zoning Ordinance to allow the construction of multiple residential units on a single lot.

13. The applicant shall pay any sewer betterment fee(s), if any, that may be required by the Town.

Stuart Hardy
Stuart Hardy
Planning Board Chairman

Nov 18, 2022
Date of Notice

Nov 1, 2022
Date of Planning
Board Decision

- The following fees must be paid prior to recording:

\$49-first page \$1 each additional page- Recording of the Decision

\$49 per sheet-Recording of Plans and Documents

A party wishing to appeal this decision must do so on or before 20 days from the date of recording by contacting the Town of Tiverton Zoning Department.

Expiration of approval. The approved Preliminary Plan is vested for a period of two (2) years with the right to extend for two (2), one-year extensions upon written request by the applicant, who must appear before the Planning Board for each annual review and provide proof of valid state or federal permits as applicable. Thereafter, vesting may be extended for a longer period, for good cause shown, if requested, in writing by the applicant, and approved by the Planning Board. The vesting for the Preliminary Plan approval includes all general and specific conditions shown on the approved Preliminary Plan drawings and supporting material.

[REDACTED]