

## **SCITUATE PLANNING BOARD      MINUTES      February 8, 2018**

Members Present: Stephen Pritchard, Chairman; Ann Burbine, Vice Chairman; Benjamin Bornstein, Clerk; William Limbacher; Richard Taylor and Alternate Member, Patricia Lambert.

Others Present: Town Planner, Karen Joseph; Planning Administrative Assistant, Shari Young.

Members absent: None.

See Sign-in List for names of others present at this meeting.

Location of meeting: Selectmen's Hearing Room, Town Hall, 600 C J Cushing Highway, Scituate

Chairman Pritchard called the meeting to order at 7:02 P.M. The meeting was being recorded for airing on local cable television.

### **Documents**

- 2/8/18 Planning Board Agenda

ACCEPTANCE OF AGENDA: Chairman Pritchard indicated there was a posted agenda. Ms. Burbine seconded the motion for the posted agenda and the vote was unanimous in favor.

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### **Accounting**

#### **Documents**

- PO # 1807464 (\$90.00), PO # 1807607 (\$390.00), PO # 1807608 (\$260.00),

Mr. Bornstein moved to approve the requisition of \$90.00 to Massachusetts Association of Planning Directors for membership dues for Ms. Karen Joseph, for \$390.00 to Merrill Corp. for stormwater peer review for 8 Bayberry Road, for \$260.00 for Merrill Corp. for peer review for Curtis Estates – 90 Ann Vinal. Ms. Burbine seconded the motion, vote was unanimously approved.

### **Minutes**

#### **Documents**

- Meeting minutes from 8/24/17
- Meeting minutes from 12/14/17
- Meeting minutes from 1/25/17

Mr. Bornstein moved to approve the meeting minutes of 8/24/17, 12/14/17 and 1/25/18.

Ms. Burbine seconded the motion for 8/24 and 12/14, vote was unanimously approved. Mr. Taylor seconded the motion for 1/25; vote was unanimously in favor.

### **Liaison Reports**

#### **CPC - Ms. Burbine reported:**

- Appraisal for parcel near harbor being done
- Elm Street parcel that is coming up for appraisal has some issues with wetlands.

#### **Water Resource Committee –Mr. Bornstein reported:**

- Water usage has been high, due to some leaks.

- Leaks in Oceanside Drive and Humarock and they are hard to find
- Scope of services from Weston and Sampson for the water study - water rate and stream flow releases quote is in the works
  - Mr. Pritchard said the fish ladder should be included in the study. Should be included in part of the assessment if doing a water study
    - When they evaluate the supply and water usage they need to take into account the agreement that the Town has with the DEP.
  - Ms. Burbine said they have fenced in the pond at Old Oaken Bucket so that no one can fish there
  - Mr. Taylor asked how does this fit into the funds for reconstructing the dam to make it higher, funds are still pending approval, but there has been a grant awarded for part of it.
    - Mr. Pritchard said the issue is the summer; Town keeps drawing down if had a bigger volume would have more days - may only get another 20-28 days of water with the increase in height that is proposed.
  - Offset proposal still doing background research how it would work and what it would look like. Comments will be coming next meeting.

**Zoning Board of Appeals – Mr. Bornstein reported:**

- Herring Brook continued and waiting for additional engineering reports for 3/1/18 meeting, flood zone concerns.
- 0 Central Park – Lawson Green apartments – 30 units – elderly housing, 40B. Concerns raised include:
  - Parking not sufficient for building and residents
  - Parking does not fit into the bylaws
  - Building potential to be LEED certified
  - Driveway between library and central park, parking will not be near Lawson Tower.
  - Planning Board comment, fire department needs access on 4 sides, unknown if sufficient to support weight of fire trucks, etc.
  - Meeting continued to next week, 2/12/18.

**Planning/Development Report**

- Issued stormwater permit for 8 Bayberry
- Continuing to work on minutes
- Working on letter for 14-16 Country Way for ZBA meeting
- Next meeting will be discussing Dog Park, Zoning and Accessory Dwelling
- Working on Finding of Fact and Conditions for Toll Brothers
- Rejected 50 Country Way building permit drawing as front of building A did not meet Planning Board conditions. Architect has to make adjustments,
- Working on verbiage for 305 Country Way/White Ash Farm tributary, deed was not filed for town ownership as conservation land.
- For zoning public hearing there will be proposed ban on marijuana establishments, with exception of medical. Will be for April town meeting.
- Zoning for Driftway, Village Business Overlay

**Continued Public Hearing – Flexible Open Space Definitive Subdivision Plan – 90 Ann Vinal Assessor's Map/Block/Lot 27-06-01**

**Applicant: Welby Builders, LLC**

**Owner: Steven D. and William G. Curtis, Jr. TRS, Curtis Realty Trust**

**Documents**

- PDF of Light fixtures dated 1.30.18
- PDD of FOSD dated 1.12.18
- Cover letter from Ross Engineering dated 1.30.18
- Motion Conditions Document dated 2.1.18
- Motion Finding of Facts Document dated 2.1.18
- Curtis Estates - Definitive Plan Decision
- Email to the Board from Karen Joseph with Town Council comments regarding Conservation Trust dated 9/7/18
- Email to the Board from Karen Joseph with Conservation Commission comments dated 2/7/18.
- Email to the Board from Karen Joseph with letter to Paul Mirabito dated 2.1.18
- Email with documents from Jeff DeLisi with comments on draft documents for Findings of Fact, Conditions and Decision all dated 2.7.18.

Present: Mr. Ohrenberger, Mr. DeLisi, Mr. Mirabito, Mr. Tansey, Mr. Gillespie

Mr. Pritchard noted for the record that he has viewed the hearing he missed on 1.25.18 and has filed a Mullen rule with the Town Clerk.

Ms. Joseph shared draft motions for Findings of Fact and Conditions for the Special Permit and draft conditions for the Certificate of Action for the definitive subdivision with the applicant and the Board.

Mr. Mirabito indicated all comments received via email on 2.1.18 by the applicant from Ms. Joseph will be noted on the final set of plans. The Board hearing no additional testimony began deliberating on Findings of Fact and Conditions for the special permit.

***Motion:***

**Findings of Fact:** Mr. Bornstein moved to approve the following findings of fact based on information submitted by the applicant and the testimony given during the Public Hearing:

1. Welby Builders, LLC filed an application for a Special Permit for a Flexible Open Space Development under Scituate Zoning Bylaw Section 550 on June 20, 2017.
2. The property that is the subject of this application is a 15.52 acre parcel at 90 Ann Vinal Road which contains a historic single family dwelling. The property is in the Residential R-2 Zoning District.
3. The applicant submitted a Sight Distance Plan stamped by Gregory J. Tansey, P.E. indicating sight distance requirements of 300 feet were met. The applicant provided a plan showing removal of trees and vegetation at the east side of the entrance to improve sight distance. A trip generation memorandum was submitted by Jeffrey S. Dirk, PE of Vanasse & Associates, Inc. The Board determined that the trip generation memorandum is acceptable and did not warrant a full traffic study.

4. The proposed stormwater management system has been reviewed by the Town's consulting engineer, Peter Palmieri, PE of Merrill Corporation whose comments indicate his concerns have been satisfactorily addressed. The rate and volume of stormwater runoff in the post development condition is less than or equal to the pre-development condition.
5. As required by Scituate Zoning Bylaw Section 550.4 D, Special Permit Approval, the Planning Board finds based on evidence and information provided by the applicant and reviewed by the Board that the Flexible Open Space Development (FOSD) is superior to a conventional subdivision, for the following reasons with the following specific benefits provided to the town consistent with those in the Purpose section:
  - a. A Conventional Density Sketch Plan showing sixteen (16) lots was approved by the Planning Board on September 21, 2017. The Flexible Open Space Development Plan does not exceed sixteen lots as approved under the Conventional Density Sketch Plan.
  - b. The existing historic Curtis House built in approximately 1860 has historical relevance and period architecture according to the Scituate Historical Commission. The house will not be demolished and will be moved to Lot 16 in the FOSD where it will be preserved and rehabilitated. This helps preserve the town's historic character which is a purpose of the FOSD bylaw.
  - c. Open Space Parcel 1 and Parcel 2 provide a buffer around the proposed development. This buffer to the development would not be there under a conventional single family home development as septic systems would be on individual lots and require considerably more grading and fill per lot. The shared soil absorption system of approximately one acre in size provides area that can be used as a field increasing the perceived open space. The open space parcels will be demarcated with signs and boulders to discourage any access.
  - d. The applicant has agreed to reconstruct a five foot wide bituminous concrete sidewalk along the perimeter of the property abutting Ann Vinal Road for the length of the property. The existing precast concrete curb will be replaced with vertical granite curb (VA-4) with 6" between the top of the curb and the pavement with a saw cut into the existing pavement to construct the curbing. This will benefit the Town by providing a safer means of pedestrian access to the adjacent Hatherly Elementary School.
6. Scituate Zoning Bylaw Section 550.5, Design Standards, Paragraph A, requires protection of important natural and historic features of the land and minimization of the size of developed areas. The property contains a historic home built in approximately 1860, which is to be preserved.

The proposed development will allow creation of Open Space Parcel 1 and 2 which contains 224,499 SF or 5.15 AC. This will minimize the size of the developed area.

This paragraph requires protection of a minimum of 30% of the parcel, or 202,820.4 SF, as open space. 244,499 SF or 36.2% are proposed to be protected. 70% of the minimum open space area or 157,149.3 SF must be uplands. 170,521 SF or 75.96% of upland is provided. The plan thus meets the Design Standard of Scituate Zoning Bylaw Section 550.5 A.

7. Scituate Zoning Bylaw Section 550.5 Paragraph B requires that construction and laying out of developed areas respect the natural features of the parcel, applying six guidelines, as follows:

- a. Guideline 1 encourages site disturbance beyond the paved area of the road to be minimized and open space maximized. Guideline 2 recommends that open space include buffers to wetlands. These are met by the preservation of open space as indicated in Finding #6 above and by clustering of homes to reduce land clearing.
  - b. Guideline 3 recommends preservation of adjacent trees along, or open space adjacent to, existing roads. Some trees are preserved along Ann Vinal Road by Drainage Basin Parcels 2 and 3, Open Space Parcel 2 and Open Space Parcel 1. Drainage Basin 2 will be a constructed with existing trees to remain to enhance stormwater treatment and wildlife habitat.
  - c. Guideline 4 recommends locating water and sewer utilities under road pavement. Water lines have been located in the grass strips adjacent to the roadway pavement in the roadway layout. The sanitary sewer trunk line is under the roadway pavement. All underground utilities will be used throughout.
  - d. Guideline 5 indicates use of Low Impact Development (LID) drainage techniques is encouraged. LID drainage was provided in use of water quality swales by Basin 2, preservation of the existing tree line in Basin 2 and reduced land clearing due to clustering of homes.
  - e. Guideline 6 states curb cuts should be minimized and conflicts with existing traffic should be avoided. One existing curb cut will be used for the development which is opposite the existing Pleasant Street.
8. Scituate Zoning Bylaw Section 550.5 C requires provisions satisfactory to the Planning Board for protection and maintenance of common land and common facilities. A Homeowners' Association Trust will own and maintain the stormwater areas of the site including the basin parcels one through four. A buffer along Ann Vinal Road is provided.
9. Scituate Zoning Bylaw Section 550.6, Minimum Requirements, states that the maximum number of lots in a Flexible Open Space Development special permit must not exceed the number which could be created through conventional development of the site. A Conventional Density Sketch Plan for 90 Ann Vinal Road in Scituate, MA dated December 1, 2016 with revisions through 9/18/17 showed that the parcel could be subdivided into sixteen lots in a manner which complies with the Zoning Bylaw and the standards of the Subdivision Rules and Regulations. This Conventional Density Sketch Plan was approved by the Planning Board on September 21, 2017. This number of buildable lots was shown on the Flexible Open Space Development Definitive Plan dated June 14, 2017 with revisions through 1/12/18 submitted with the application shows sixteen lots.
10. Scituate Zoning Bylaw Sections 550.6 A., Lot Area and Width and B., Frontage requires the lot area, width and frontage for each lot to be sufficient to support the dwelling, its accessory structures, septic system and access. Based on information provided by the applicant's engineer, each lot is of sufficient size and width to do so as there is a separate lot for the soil absorption system.
11. Scituate Zoning Bylaw Section 550.6 C. requires 15' front, side and rear setbacks in a Flexible Open Space Development, with setbacks from the perimeter of the development equal to those of the underlying zoning (30' rear setbacks required in R-2.) Building envelopes shown on Sheet 4 and 5 show setbacks for Lots 1 – 16 which meet the requirements of 550.6 C.

12. Scituate Zoning Bylaw Section 550.6 D requires no more than one single or two-family dwelling and accessory structures on each lot. No more homes can be built on any lot because Scituate Zoning Bylaw prohibits construction of more than one single- or two-family home on a residential lot (see Section 430.1.)
13. Scituate Zoning Bylaw Section 550.6 E requires open space to be conveyed to the Town, a conservation trust, or protected through a deed restriction accepted by the Massachusetts Office of Energy and Environmental Affairs. One of these three methods will be utilized.
14. Scituate Zoning Bylaw Section 550.6 F requires restriction of further subdivision of the lots shown on the plan with a note so stating on the plan (Note 11 Page 1). The special permit will include a condition that prior to the start of construction, a deed restriction shall be recorded stating that no lot in the Flexible Open Space Development may be further divided or subdivided into additional building lots, and a note shall be added to the plan to reference this condition.
15. Scituate Zoning Bylaw Section 550.6 G permits the Planning Board to specify roadway, drainage and utility design requirements deemed necessary to ensure adequate access, lessen congestion, provide proper drainage, protect public safety or provide for water, sewage, utilities or other municipal services. The Planning Board has done so for this project by taking into account comments from the DPW and town's consulting engineer with the roadway cross section and the reconstruction of the sidewalk and curbing along the project frontage of Ann Vinal Road and these shall be included in conditions of approval.
16. Based on these findings, the Flexible Open Space Development is superior to a conventional subdivision, and meets the requirements for a Flexible Open Space Development, Section 550 of the Zoning Bylaw.

Mr. Limbacher seconded the motion for discussion purposes; the vote was unanimously in favor.

Discussion was focused on the motion to approve the Findings of Fact. Both the Board and the applicant reviewed comments point by point. The motion was amended as shown below with all parties in agreement.

***Amended Motion: Findings of Fact:***

Ms. Burbine moved to approve the amended findings of fact based on information submitted by Welby Builders, LLC (hereinafter, together with successors and assigns, the "Applicant") and the testimony given during the Public Hearing:

1. The Applicant filed an application for a Special Permit for a Flexible Open Space Development under Scituate Zoning Bylaw Section 550 on June 20, 2017.
2. The property that is the subject of this application is a 15.52 acre parcel at 90 Ann Vinal Road which contains a historic single family dwelling. The property is in the Residential R-2 Zoning District.
3. The Applicant submitted a Sight Distance Plan stamped by Gregory J. Tansey, P.E. indicating sight distance requirements of 300 feet were met. The Applicant provided a plan showing removal of trees and vegetation at the east side of the entrance to improve sight distance. A trip generation memorandum was submitted by Jeffrey S. Dirk, PE of Vanasse & Associates, Inc.

The Board determined that the trip generation memorandum is acceptable and did not warrant a full traffic study.

4. The proposed stormwater management system has been reviewed by the Town's consulting engineer, Peter Palmieri, PE of Merrill Corporation whose comments indicate his concerns have been satisfactorily addressed. The rate and volume of stormwater runoff in the post development condition is less than or equal to the pre-development condition.
5. As required by Scituate Zoning Bylaw Section 550.4 D, Special Permit Approval, the Planning Board finds based on evidence and information provided by the Applicant and reviewed by the Board that the Flexible Open Space Development (FOSD) is superior to a conventional subdivision, for the following reasons with the following specific benefits provided to the town consistent with those in the Purpose section:
  - a. A Conventional Density Sketch Plan showing sixteen (16) lots was approved by the Planning Board on September 21, 2017. The Flexible Open Space Development Plan does not exceed sixteen lots as approved under the Conventional Density Sketch Plan.
  - b. The existing historic Curtis House built in approximately 1860 has historical relevance and period architecture according to the Scituate Historical Commission. The house will not be demolished and will be moved to Lot 16 in the FOSD where it will be preserved and rehabilitated. This helps preserve the town's historic character which is a purpose of the FOSD bylaw.
  - c. Open Space Parcel 1 and Parcel 2 provide a buffer around the proposed development. This buffer to the development would not be preserved under a conventional single family home development as septic systems would be on individual lots and require considerably more grading and fill per lot. The shared soil absorption system of approximately one acre in size provides area that can be used as a field increasing the perceived open space. The open space parcels will be demarcated with signs and boulders/rocks to discourage any access.
  - d. The Applicant has agreed to reconstruct a five foot wide bituminous concrete sidewalk along the perimeter of the property abutting Ann Vinal Road for the length of the property. The existing precast concrete curb will be replaced with vertical granite curb (VA-4) with 6" between the top of the curb and the pavement with a saw cut into the existing pavement to construct the curbing. This will benefit the Town by providing a safer means of pedestrian access to the adjacent Hatherly Elementary School.
6. Scituate Zoning Bylaw Section 550.5, Design Standards, Paragraph A, requires protection of important natural and historic features of the land and minimization of the size of developed areas. The property contains a historic home built in approximately 1860, which is to be preserved.

The proposed development will allow creation of Open Space Parcel 1 and 2 which contains 224,499 SF or 5.15 AC. This will minimize the size of the developed area.

This paragraph requires protection of a minimum of 30% of the parcel, or 202,820.4 SF, as open space. 244,499 SF or 36.2% are proposed to be protected. 70% of the minimum open space area or 157,149.3 SF must be uplands. 170,521 SF or 75.96% of upland is provided. The plan thus meets the Design Standard of Scituate Zoning Bylaw Section 550.5 A.

7. Scituate Zoning Bylaw Section 550.5 Paragraph B requires that construction and laying out of developed areas respect the natural features of the parcel, applying six guidelines, as follows:
  - a. Guideline 1 encourages site disturbance beyond the paved area of the road to be minimized and open space maximized. Guideline 2 recommends that open space include buffers to wetlands. These are met by the preservation of open space as indicated in Finding #6 above and by clustering of homes to reduce land clearing.
  - b. Guideline 3 recommends preservation of adjacent trees along, or open space adjacent to, existing roads. Some trees are preserved along Ann Vinal Road by Drainage Basin Parcels 2 and 3, Open Space Parcel 2 and Open Space Parcel 1. Drainage Basin 2 will be constructed with existing trees to remain to enhance stormwater treatment and wildlife habitat.
  - c. Guideline 4 recommends locating water and sewer utilities under road pavement. Water lines have been located in the grass strips adjacent to the roadway pavement in the roadway layout. The sanitary sewer trunk line is under the roadway pavement. All underground utilities will be used throughout.
  - d. Guideline 5 indicates use of Low Impact Development (LID) drainage techniques is encouraged. LID drainage was provided in use of water quality swales by Basin 2, preservation of the existing tree line in Basin 2 and reduced land clearing due to clustering of homes.
  - e. Guideline 6 states curb cuts should be minimized and conflicts with existing traffic should be avoided. One existing curb cut will be used for the development which is opposite the existing Pleasant Street.
8. Scituate Zoning Bylaw Section 550.5 C requires provisions satisfactory to the Planning Board for protection and maintenance of common land and common facilities. A Homeowners' Association Trust will own and maintain the stormwater areas of the site including the basin parcels one through four. A buffer along Ann Vinal Road is provided.
9. Scituate Zoning Bylaw Section 550.6, Minimum Requirements, states that the maximum number of lots in a Flexible Open Space Development special permit must not exceed the number which could be created through conventional development of the site. A Conventional Density Sketch Plan for 90 Ann Vinal Road in Scituate, MA dated December 1, 2016 with revisions through 9/18/17 showed that the parcel could be subdivided into sixteen lots in a manner which complies with the Zoning Bylaw and the standards of the Subdivision Rules and Regulations. This Conventional Density Sketch Plan was approved by the Planning Board on September 21, 2017. This number of buildable lots was shown on the Flexible Open Space Development Definitive Plan dated June 14, 2017 with revisions through 1/12/18 submitted with the application shows sixteen lots.
10. Scituate Zoning Bylaw Sections 550.6 A., Lot Area and Width and B., Frontage requires the lot area, width and frontage for each lot to be sufficient to support the dwelling, its accessory structures, septic system and access. Based on information provided by the Applicant's engineer, each lot is of sufficient size and width to do so as there is a separate lot for the soil absorption system.
11. Scituate Zoning Bylaw Section 550.6 C. requires 15' front, side and rear setbacks in a Flexible Open Space Development, with setbacks from the perimeter of the development equal to those of

the underlying zoning (30' rear setbacks required in R-2.) Building envelopes shown on Sheet 4 and 5 show setbacks for Lots 1 – 16 which meet the requirements of 550.6 C.

12. Scituate Zoning Bylaw Section 550.6 D requires no more than one single or two-family dwelling and accessory structures on each lot. Based on the information provided by the Applicant, only one single family home and accessory structures will be built on a lot which complies with the zoning bylaw.
13. Scituate Zoning Bylaw Section 550.6 E requires open space to be conveyed to the Town, a conservation trust, or protected through a deed restriction accepted by the Massachusetts Office of Energy and Environmental Affairs. One of these three methods will be utilized.
14. Scituate Zoning Bylaw Section 550.6 F requires restriction of further subdivision of the lots shown on the plan with a note so stating on the plan (Note 11 Page 1). The special permit will include a condition that prior to the start of construction, a deed restriction shall be recorded stating that no lot in the Flexible Open Space Development may be further divided or subdivided into additional building lots, and a note shall be added to the plan to reference this condition.
15. Scituate Zoning Bylaw Section 550.6 G permits the Planning Board to specify roadway, drainage and utility design requirements deemed necessary to ensure adequate access, lessen congestion, provide proper drainage, protect public safety or provide for water, sewage, utilities or other municipal services. The Planning Board has done so for this project by taking into account comments from the DPW and town's consulting engineer with the roadway cross section and the reconstruction of the sidewalk and curbing along the project frontage of Ann Vinal Road and these shall be included in conditions of approval.
16. Based on these findings, the Flexible Open Space Development is superior to a conventional subdivision, and meets the requirements for a Flexible Open Space Development, Section 550 of the Zoning Bylaw.

Mr. Taylor seconded the amended findings of fact motion; the vote was unanimously approved.

***Conditions:***

Ms. Burbine moved based on the amended Findings of Fact, to approve the Flexible Open Space Development Special Permit for Curtis Estates at 90 Ann Vinal Road with the following conditions:

**GENERAL**

1. All construction shall be according to a plan by Ross Engineering Company Inc. titled Curtis Estates, A Definitive Flexible Open Space Development Plan at 90 Ann Vinal Road in Scituate, Massachusetts, dated June 14, 2017, with revisions through January 12, 2018, (will be one more date) with any additional revisions needed to conform to these conditions.
2. Construction shall meet all requirements of the DPW, Fire Department, Building Department, Board of Health, Conservation Commission, Massachusetts DEP, the State Building Code and all applicable federal, state and local laws and regulations.
3. All replacement of or connection to Town drainage and installation of all water mains and appurtenances shall be performed according to the specifications of the Scituate DPW. When water and sewer is being installed on this project, a third party inspector shall be employed to review the construction activity and assure compliance with the Town's rules and regulations.

All costs associated with this work shall be the burden of the developer. The third party inspector shall be approved by the DPW and Town Planner. Approval to tie into Town drainage must be provided to the Town Planner **prior to endorsement**.

4. The total number of single family dwellings on the site shall not exceed sixteen. There shall be no further division or subdivision of any lot shown on the plan for the purpose of construction of an additional dwelling. A deed restriction shall be recorded stating that no lot in the Flexible Open Space Development may be further divided or subdivided into additional building lots.
5. Access to all lots shall be over the proposed subdivision roads. There shall be no further extensions of the roads or attachments of any other roads or Common Driveways to the proposed subdivision roads.
6. The drainage system shall be maintained according to the Long Term Best Management Practices Operation & Maintenance Plan and Pollution Prevention Plan, which shall be included in the Homeowners' Association Agreement.
7. All electrical, telephone, cable and similar utilities shall be located underground.
8. Lighting shall be installed as shown on the plan, subject to the approval of the Board of Selectmen. Light fixtures shall not exceed 14'6" in height and the style shall be approved by the DPW.
9. Prior to installation of an entrance sign, a sketch showing dimensions, location, materials and color shall be provided to the Town Planner.
10. Underground irrigation systems are prohibited from connecting to the town's water distribution system or in any manner using municipal water. All irrigation systems installed must be supplied by on-site sources at the expense of the property owner. Violations of this policy shall result in a fine to the property owner, with an equal fine levied on the installer of the system.

**REQUIRED PRIOR TO ENDORSEMENT OF THE DEFINITIVE PLAN:**

11. The detail for the bituminous concrete berm shall be revised to indicate the berm shall be monolithically laid with the top course and constructed by machine. Limits of vertical granite curb shall be shown on the plan.
12. An easement shall be granted to the Town of Scituate via the Homeowner's Association Trust allowing the right to construct, repair, replace, extend, operate, use and maintain all streets, water mains, and all surface and subsurface stormwater drains in, through or under the streets and easements, should the Town vote to accept the subdivision road as a public street. The above shall not be construed to relieve the applicant, and his successors in title, to the ownership of a portion of the land or any street within the subdivision, nor diminish in any way, his responsibility to complete all construction as required by the applicant's agreements with the Town and to thereafter maintain all streets and utilities in satisfactory condition until they are accepted by the Town.
13. A copy of the revised Definitive Flexible Open Space Development Plan shall be provided to the Planning Board a minimum of ten business days prior to expected endorsement of the Definitive Plan.

14. A Homeowners' Association Agreement including the following items shall be provided to the Planning Board no less than ten business days prior to endorsement of the Definitive Plan.
  - a) A requirement that from the time the developer has ceased maintenance, a Homeowner's Association shall maintain and repair all components of the stormwater management system, roadways (until such time as the road may be accepted by the Town,) landscaping in the road layout and bounds.
  - b) A requirement that the Homeowner's Association permanently maintain the signage and boulders to demarcate the open space and signs.
  - c) The Homeowner's Association shall establish an area for snow storage, which shall not impact the stormwater management system, septic system and components, open space parcels or interfere with sightlines for vehicles exiting driveways or the subdivision. The locations shall be approved by the Town Planner and DPW.
  - d) A requirement that the Association maintain an account always containing a minimum of one year's costs for maintenance. A contractor's estimate of this maintenance and proof of the available funds in this account shall be provided to the Planning Board with the Agreement and annually on the first of the year.
  - e) A requirement that the developer notify contractors, builders and real estate agents that membership in a Homeowners' Association is required to be disclosed to all prospective buyers, and shall make copies of the Homeowner's Association Agreement available to be provided to all prospective purchasers of lots in the development. A receipt shall be provided to the Planning Board indicating each purchaser's receipt of the Homeowners' Association Agreement. This is required prior to an occupancy permit for each dwelling.
  - f) A requirement that the Homeowner's Association notify the Planning Board of the name, address, phone no. and e-mail of the trustees within seven days of their election, and to provide an annual report of their maintenance activities to the Planning Board by January 1 of each year.
15. Signs, landscaping, and other features located within sight triangle areas shall be designed, installed and maintained so not to exceed 2.5 feet in height. Snow windrows located within sight triangle areas that exceed 3.5 feet in height or that would otherwise inhibit sight lines shall be promptly removed. Sight lines to be maintained in perpetuity by the Homeowner's Association.
16. A marked crosswalk with American with Disabilities Act (ADA) compliant wheelchair ramps shall be provided for the roadways that will serve the development along with stop signs and stop line details.
17. Open space to be permanently demarcated by signage and boulders as shown on the plans to discourage access to permanently protected open space. The signs shall be white with dark green lettering, constructed of durable weatherproof material, a minimum of 1 sq. ft. in area and 4' in height. The signs shall state Open Space/No Disturb Zone and shall be spaced as shown on the plan.
18. Housing depictions shown on the plans are graphic only. Substantial deviations require notification of the Town Planner to determine if off-site or on-site impacts are created.

19. The SWPPP identifies a construction sequencing activities with phasing. Phasing shall be according to the plans. No clear cutting of the site is allowed.

**REQUIRED PRIOR TO PRE-CONSTRUCTION CONFERENCE**

20. Prior to the pre-construction conference, the following must be provided to the Planning Board:

- a) Copies of the NPDES Permit and Stormwater Pollution Prevention Plan and Conservation.
  - b) A check to cover the cost of inspections by the Town's consulting engineer per Section 9 of the Subdivision Rules and Regulations inclusive of tree clearing in and around drainage basins 2 and 3, water and sewer utility installation and review of Interim and Final As-Built Plans.
  - c) A copy of a recorded deed restriction stating that no lot in the Flexible Open Space Development may be further divided or subdivided into additional building lots.
  - d) Construction schedule including approximate dates for items in Subdivision Rules and Regulations 9.1.3.
  - e) Three full size sets and two reduced sets of the endorsed, recorded plans.
21. A pre-construction conference shall be held with the applicants, their representatives, their engineer, the site contractor(s), the Town Planner, the Planning Board's consulting engineer, Conservation Agent, a representative of DPW and other representatives of the Town as the Board feels are necessary. A preconstruction conference will not be scheduled until all items required hereunder have been submitted. A list of all contractor contacts, including names and telephone numbers, shall be provided to the Planning Board and DPW. At least one telephone contact shall be available 24 hours per day in the event of an emergency.

**REQUIRED PRIOR TO THE START OF CONSTRUCTION**

22. The boundary of the limit of clearing shall be marked or flagged in the field under direction of a surveyor, and notification given to the Town Planner a minimum of three business days prior to the start of construction. A construction limit snow fence, in addition to other required erosion and sedimentation controls, shall be installed along the perimeter of the open space prior to work. This buffer protection shall be maintained until all work is completed.

**REQUIRED DURING CONSTRUCTION**

23. Construction work shall not begin prior to 7 AM weekdays and 8 AM on Saturdays, and shall cease no later than 7PM or sunset whichever is earlier. No construction shall take place on Sundays and legal holidays.
24. All earth moving operations shall only occur while erosion and sedimentation control measures approved by the Town Planner or the Board's consulting engineer are in place. Such control measures shall remain in place until the Board's consulting engineer determines, after consultation with the Town Planner, that the danger of erosion or sedimentation no longer exists.
25. Hauling of construction materials to and from the site shall not occur during School bus hours in the morning and afternoon. These hours are generally 7:00 am – 8:30 am and 2:00 pm – 3:30

pm. These hours are to be confirmed annually with the Superintendent of Schools with documentation provided to the Planning Office within 48 hours of the Superintendent's approval.

26. No construction traffic shall use Booth Hill Road or Mann Lot Road due to their narrow winding nature.
27. Interim As-Built Plans shall be prepared for all drainage or detention basins, swales and the roadway system and provided to the Planning Office for review and approval before any building permits for new structures or buildings are issued.

Interim As-Built shall confirm that the roadway and drainage basins are properly constructed, located in the approved location and properly sized so that the required storage capacity is available and no upland necessary for adjacent lots has been used. The location of the drainage basin and all drainage easements shall be confirmed by setting a minimum of two bounds and shall be tied into two bounds of the Subdivision way and Mass. State Plane coordinate system. As-Built plans shall be signed and stamped by a Registered Professional Engineer and Professional Land Surveyor who oversaw the work.

#### **REQUIRED PRIOR TO ISSUANCE OF THE FIRST BUILDING PERMIT**

28. The signs and boulders identified in condition 16 shall be installed prior to the first building permit.
29. A copy of the deed conveying the Open Space Parcels to the Town of Scituate for the care and custody of the Conservation Commission shall be provided to the Planning Board prior to the issuance of a building permit on any lot.

#### **REQUIRED PRIOR TO ISSUANCE OF AN OCCUPANCY PERMIT**

30. Prior to issuance of an occupancy permit, a registered professional engineer shall inspect the lot and certify with his signature and stamp and an as-built plan to the Planning Board and Building Commissioner that any variation in grade is insignificant and does not alter the drainage calculations, the function of the stormwater management system or the rate or volume of stormwater flowing onto abutting properties.

#### **ADMINISTRATION**

31. All time periods referenced in this document for completion of conditions shall be tolled in case any appeals are taken.
32. This Special Permit shall be void if it is not recorded at the Registry of Deeds within 90 days of expiration of the appeal period or such extension of that time period granted by the Planning Board following approval of this Special Permit. The Applicant shall provide proof that the Special Permit was recorded to the Planning Board.
33. Within ten days of the date of recording, copies of the approved Definitive Flexible Open Space Development Plan, the special permit, the Homeowners' Association Agreement shall be provided to the Planning Board.
34. This Special Permit shall lapse within two years from the date of its issuance unless substantial use or construction has commenced prior to that time in accordance with MGL Chapter 40A, Section 9.

35. All plan sheets of the Flexible Open Space Development Definitive Plan shall be recorded at the Registry of Deeds.

Mr. Limbacher seconded the motion for discussion purposes. Motion was unanimously approved. The Applicant and the board discussed the above conditions and agreed upon the amended conditions below.

***Amended conditions:***

Ms. Burbine moved that based on the amended Findings of Fact, to approve the Flexible Open Space Development Special Permit for Curtis Estates at 90 Ann Vinal Road with the following conditions as discussed and amended:

**GENERAL**

1. All construction shall be according to a plan by Ross Engineering Company Inc. titled Curtis Estates, A Definitive Flexible Open Space Development Plan at 90 Ann Vinal Road in Scituate, Massachusetts, dated June 14, 2017, with revisions through February 9, 2018, with any additional revisions needed to conform to these conditions (hereinafter, collectively, the "Definitive Plan").
2. Construction shall meet all applicable federal, state and local laws and regulations, including, but not limited to, requirements of the DPW, Fire Department, Building Department, Board of Health, Conservation Commission, Massachusetts DEP and the State Building Code.
3. All replacement of or connection to Town drainage and installation of all water mains and appurtenances shall be performed according to the specifications of the Scituate DPW. When water and sewer is being installed on this project, a third party inspector shall be employed to review the construction activity and assure compliance with the Town's rules and regulations. The work shall be funded by the Applicant. The third party inspector shall be approved by the DPW and Town Planner. Approval to tie into Town drainage must be provided to the Town Planner **prior to endorsement**.
4. The total number of buildable lots on the site shall not exceed sixteen. There shall be no further division or subdivision of any lot shown on the plan for the purpose of construction of an additional dwelling. A deed restriction shall be recorded stating that no lot in the Flexible Open Space Development may be further divided or subdivided into additional building lots.
5. Access to all lots shall be over the proposed subdivision roads. There shall be no further extensions of the roads or attachments of any other roads or Common Driveways to the proposed subdivision roads.
6. The drainage system shall be maintained according to the Long Term Best Management Practices Operation & Maintenance Plan and Pollution Prevention Plan, dated February 9, 2018, which shall be included in the Homeowners' Association Agreement.
7. All electrical, telephone, cable and similar utilities shall be located underground.
8. Lighting shall be installed as shown on the plan, subject to the approval of the Board of Selectmen. Light fixtures shall not exceed 14'6" in height and the style shall be consistent with Benjamin Studley Farm or approved equivalent.

9. Prior to installation of an entrance sign, a sketch showing dimensions, location, materials and color shall be provided to the Town Planner for final approval. .
10. Underground irrigation systems are prohibited from connecting to the town's water distribution system or in any manner using municipal water. All irrigation systems installed must be supplied by on-site sources at the expense of the property owner. Violations of this policy shall result in a fine to the property owner, with an equal fine levied on the installer of the system.

**REQUIRED PRIOR TO ENDORSEMENT OF THE DEFINITIVE PLAN:**

11. The detail for the bituminous concrete berm shall be revised to indicate the berm shall be monolithically laid with the top course and constructed by machine. Limits of vertical granite curb shall be shown on the plan.
12. An easement shall be granted to the Town of Scituate via the Homeowner's Association Trust allowing the right to construct, repair, replace, extend, operate, use and maintain all streets, water mains, and all surface and subsurface stormwater drains in, through or under the streets and easements, should the Town vote to accept the subdivision road as a public street. The above shall not be construed to relieve the applicant, and his successors in title, to the ownership of a portion of the land or any street within the subdivision, nor diminish in any way, his responsibility to complete all construction as required by the applicant's agreements with the Town and to thereafter maintain all streets and utilities in satisfactory condition until they are accepted by the Town.
13. A copy of the revised Definitive Flexible Open Space Development Plan shall be provided to the Planning Board a minimum of ten business days prior to expected endorsement of the Definitive Plan.
14. A final draft of the Homeowners' Association Agreement including the following items shall be provided to the Planning Board no less than ten business days prior to endorsement of the Definitive Plan.
  - a) A requirement that from the time the developer has ceased maintenance, a Homeowner's Association shall maintain and repair all components of the stormwater management system, roadways (until such time as the road may be accepted by the Town,) landscaping in the road layout and bounds.
  - b) A requirement that the Homeowner's Association permanently maintain the signage and boulders/rocks to demarcate the open space and signs.
  - c) The Homeowner's Association shall establish an area for snow storage, which shall not impact the stormwater management system, septic system and components, open space parcels or interfere with sightlines for vehicles exiting driveways or the subdivision. The locations shall be approved by the Town Planner and DPW.
  - d) A requirement that the Association maintain an account always containing a minimum of one year's costs for maintenance. A contractor's estimate of this maintenance and proof of the available funds in this account shall be provided to the Planning Board with the Agreement and annually on the first of the year.

- e) A requirement that the Applicant notify contractors, builders and real estate agents that membership in a Homeowners' Association is required to be disclosed to all prospective buyers, and shall make copies of the Homeowner's Association Agreement available to be provided to all prospective purchasers of lots in the development. A statement shall be provided to the Planning Board indicating each purchaser has been notified of the Homeowners' Association Agreement. This is required prior to the issuance of an occupancy permit for each dwelling.
  - f) A requirement that the Homeowner's Association notify the Planning Board of the name, address, phone no. and e-mail of the trustees within seven days of their election, and to provide an annual report of their maintenance activities to the Planning Board by January 1 of each year.
15. Signs, landscaping, and other features located within sight triangle areas shall be designed, installed and maintained so not to exceed 2.5 feet in height. Snow windrows located within sight triangle areas that exceed 3.5 feet in height or that would otherwise inhibit sight lines shall be promptly removed. Sight lines as shown on the Definitive Plan shall be maintained in perpetuity by the Homeowner's Association.
  16. A marked crosswalk with American with Disabilities Act (ADA) compliant wheelchair ramps shall be provided for the roadways that will serve the development along with stop signs and stop line details.
  17. Prior to the first building permit for a newly constructed dwelling, open space to be permanently demarcated by signage and boulders/rocks as shown on the plans to discourage access to permanently protected open space. The signs shall be white with dark green lettering, constructed of durable weatherproof material, a minimum of 1 sq. ft. in area and 4' in height, or as otherwise approved by the Town Planner. The signs shall state Open Space/No Disturb Zone and shall be spaced as shown on the plan.
  18. Housing depictions shown on the plans are representative but are intended to show the general orientation and grading of the house and lot in order to conform to the stormwater system design and minimize impacts to the neighboring houses. Any material deviations from the plans shall require notification of the Town Planner and shall be addressed prior to the issuance of any building permit.
  19. The Storm Water Pollution Prevention Plan (SWPPP) identifies a construction sequencing activities. Phasing, if any, shall be according to the plans. Land clearing shall be consistent with construction phasing.
  20. Landscaping Plan Sheets of the Definitive Plan shall include seed mix specifications for the soil absorption system parcel and lawns. Additional plantings for the stormwater basin shall be reviewed and approved by the Town Planner. An additional five white pines 6 to 7 feet in height shall be added in the field in the buffer area at the direction of the Town Planner

#### **REQUIRED PRIOR TO PRE-CONSTRUCTION CONFERENCE**

21. Prior to the pre-construction conference, the following must be provided to the Planning Board:
  - a) Copies of the NPDES Permit and SWPPP;
  - b) A check to cover the cost of inspections by the Town's consulting engineer per Section 9 of the Subdivision Rules and Regulations inclusive of tree clearing in

and around drainage basins 2 and 3, water and sewer utility installation and review of Interim and Final As-Built Plans.

- c) A copy of a recorded deed restriction stating that no lot in the Flexible Open Space Development may be further divided or subdivided into additional building lots.
  - d) Construction schedule including approximate dates for items in Subdivision Rules and Regulations 9.1.3.
  - e) Three full size sets and two reduced sets of the endorsed, recorded plans.
22. A pre-construction conference shall be held with the applicants, their representatives, their engineer, the site contractor(s), the Town Planner, the Planning Board's consulting engineer, Conservation Agent, a representative of DPW and other representatives of the Town as the Board feels are necessary. A preconstruction conference will not be scheduled until all items required hereunder have been submitted. A list of all contractor contacts, including names and telephone numbers, shall be provided to the Planning Board and DPW. At least one telephone contact shall be available 24 hours per day in the event of an emergency.

#### **REQUIRED PRIOR TO THE START OF CONSTRUCTION**

23. The boundary of the limit of clearing shall be marked or flagged in the field under direction of a surveyor, and notification given to the Town Planner a minimum of three business days prior to the start of construction. A construction limit snow fence, in addition to other required erosion and sedimentation controls, shall be installed along the perimeter of the open space prior to work. This buffer protection shall be maintained until all work is completed.

#### **REQUIRED DURING CONSTRUCTION**

24. Construction work shall not begin prior to 7 AM weekdays and 8 AM on Saturdays, and shall cease no later than 7PM or sunset whichever is earlier. No construction shall take place on Sundays and legal holidays.
25. All earth moving operations shall only occur while erosion and sedimentation control measures approved by the Town Planner or the Board's consulting engineer are in place. Such control measures shall remain in place until the Board's consulting engineer determines, after consultation with the Town Planner, that the danger of erosion or sedimentation no longer exists.
26. Hauling of construction materials to and from the site shall not occur during Hatherly School bus hours in the morning and afternoon. These hours are generally 7:00 am – 8:30 am and 2:00 pm – 3:30 pm. These hours are to be confirmed annually with the Superintendent of Schools with documentation provided to the Planning Office within 48 hours of the Superintendent's approval.
27. No construction traffic shall use Booth Hill Road or Mann Lot Road due to their narrow winding nature.
28. Upon completion of construction of the base course of the roadway system, drainage or detention basins, and swales and prior to the movement of the existing house, stamped as-built plans shall be provided to the Planning Board to confirm that the system and drainage are located and function according to the plans.

As-Built plans shall be signed and stamped by a Registered Professional Engineer and Professional Land Surveyor who oversaw the work.

#### **REQUIRED PRIOR TO ISSUANCE OF THE FIRST BUILDING PERMIT**

29. A copy of the applicable restriction required by Section 550.6 E. of the zoning bylaw shall be provided to the Planning Board prior to the issuance of a building permit for newly constructed dwellings on any lot.

#### **REQUIRED PRIOR TO ISSUANCE OF AN OCCUPANCY PERMIT**

30. The signs and boulders identified in condition 17 shall be installed prior to issuance of the first occupancy permit for a newly constructed dwelling.
31. Prior to issuance of an occupancy permit, a registered professional engineer shall inspect the lot and certify with his signature and stamp and an as-built plan to the Planning Board and Building Commissioner that any variation in grade is immaterial and does not materially alter the performance of the stormwater management system.
32. Prior to issuance of the fifth occupancy permit, The Applicant shall have completed the relocation of the existing dwelling in accordance with the requirements of the Historical Commission with a historical plaque.

#### **ADMINISTRATION**

33. All time periods referenced in this document for completion of conditions shall be tolled in case any appeals are taken.
34. This Special Permit shall be void if it is not recorded at the Registry of Deeds within 90 days of expiration of the appeal period or such extension of that time period granted by the Planning Board following approval of this Special Permit. The Applicant shall provide proof that the Special Permit was recorded to the Planning Board.
35. Within ten days of the date of recording, copies of the approved Definitive Flexible Open Space Development Plan, the special permit, the Homeowners' Association Agreement shall be provided to the Planning Board.
36. This Special Permit shall lapse within two years from the date of its issuance unless substantial use or construction has commenced prior to that time in accordance with MGL Chapter 40A, Section 9.
37. All plan sheets of the Flexible Open Space Development Definitive Plan shall be recorded at the Registry of Deeds.

Ms. Burbine moved to approve the Conditions as discussed and amended. Mr. Taylor seconded the motion; the vote was unanimously approved.

#### ***Certificate of Action on the Definitive Subdivision Plan:***

Ms. Burbine moved to approve the Curtis Estates Definitive Subdivision with the following conditions as noted below:

1. All construction shall be according to a plan by Ross Engineering Company, Inc. titled Curtis Estates A Definitive Flexible Open Space Development Plan at 90 Ann Vinal Road in Scituate,

Massachusetts, dated June 14, 2017, with revisions through January 12, 2018, with any additional revisions needed to conform to these conditions or those of the Flexible Open Space Development Special Permit.

2. Where a Definitive Plan requires approval, permitting or licensing from any local, state or federal agency, this approval, permitting or licensing will be deemed a condition of the Planning Board's approval, including the Planning Board's approval of work in the layout of Ann Vinal Road.
3. Construction shall meet all requirements of the Scituate Subdivision Rules and Regulations dated August 13, 2010 except as specifically waived by the Planning Board or otherwise conditioned in the Special Permit for the Flexible Open Space Development. All conditions of approval and waivers granted shall be inscribed on the plan prior to endorsement.
4. The total number of single family dwelling units on the site shall not exceed sixteen (16). No lot in the Flexible Open Space Definitive Subdivision may be further divided or subdivided into additional building lots.
5. The applicant shall obtain the endorsement of the Planning Board upon the Definitive Plan within 180 days of the date of approval or termination of the appeal period of the Special Permit. Failure to obtain such endorsement shall result in the automatic rescission of the approval of such plan.
6. The applicant shall complete the construction of all ways and municipal services within three years of the date of endorsement of the Definitive Plan. Failure to so complete shall result in the automatic rescission of the approval of such plan, unless the Board extends said period, for good cause shown, after the written request of the applicant prior to the expiration of said period.
7. The applicant shall agree to construct streets and complete all other work specified on the Definitive Plan or required under these Rules and Regulations, meet all relevant provisions of the Scituate Zoning By-Laws and other By-Laws, including installation of all required utilities in such subdivision, and all work incidental thereto, such as grading of lots to provide drainage, construction of walkways, retaining walls and other details, as outlined in Section 7.0 of these Rules and Regulations and as specifically required by the Planning Board, within three years of the date of endorsement of the Definitive Plan.
8. The applicant shall maintain all streets and utilities within the subdivision, with the exception of water service until such time as maintenance is performed by the Homeowner's Association. The Town may assess betterments for any work needed to make such streets conform to Town standards prior to acceptance thereof as Town ways.

Street acceptance by the Town shall generally be limited, as to drainage, to the storm drainage system within the street layout. Until a street within a subdivision is accepted by Town Meeting as a public way, all streets, those portions of drainage systems within the street layout and other improvements within the street layout shall be operated and maintained by the developer or a Homeowner's Association made up of the residents of the subdivision or their representatives. The sewer/septic line under the street shall remain private in perpetuity and be maintained by the Homeowner's Association.

After a street is accepted by the town, components of the drainage and stormwater management system outside the street layout such as detention/retention devices and their outfalls, drainage swales, and other similar facilities for stormwater management outside the street layout shall continue to be maintained by the Homeowner's Association. The Homeowner's Association is also responsible for maintaining the private septic/sewer line in the road and Soil Absorption

System. The developer shall inform the Planning Board within seven (7) days of the date that his/her maintenance responsibilities are assumed by the Homeowner's Association.

9. A Covenant or other form of surety as provided in M.G.L. c. 41, s. 81U to guarantee construction of the road, drainage improvements and any additional on or off site improvements agreed to by the applicant, shall be provided to the Planning Board prior to endorsement of the Definitive Plan by the owners of record of the land in the subdivision. This Covenant shall run with the land and be binding upon the owner(s) and their successors in interest. Upon approval of the covenant by the Planning Board, reference thereto shall be inscribed upon the plan and it shall be recorded with the covenant at the expense of the applicant. The town must be provided recorded copies of decisions, drawings and covenants within five (5) days of recording. No site work or construction shall commence without the recorded information being provided to the Town.
10. In addition to the Covenant normally required to secure the construction of ways and installation of municipal services, the Planning Board shall require, prior to the endorsement of the Definitive Plan, a supplemental covenant containing those conditions of approval that are intended to survive the release of the Statutory Covenant. Such covenant shall be approved as to form by the Planning Board Legal Counsel. Such covenant shall be executed and duly recorded by the owner(s) of record, and shall run with the land. The covenant shall be referenced on the Definitive Plan prior to recording in the Registry of Deeds.
11. An easement shall be provided allowing a Homeowner's Association access to drainage and stormwater management systems and the private septic/sewer line and Soil Absorption System which will be privately maintained to allow inspection, maintenance and repair, and allowing the town access in case of an emergency, or to test water quality if this is deemed in the public interest.

The applicant shall also grant to the Town of Scituate, a right and easement to construct, repair, replace, extend, operate, use and forever maintain all streets, water mains, sewer mains, and all surface and subsurface storm water drains in, through or under the streets and easements as indicated on the Definitive Plan. The above shall not be construed to relieve the applicant, and his successors in title, to the ownership of a portion of the land or any street within the subdivision, nor diminish in any way, his responsibility to complete all construction as required by the applicant's agreements with the Town and to thereafter maintain all streets and utilities in satisfactory condition until they are accepted by the Town.
12. The applicant shall consent to allow members and employees of the Planning Board and other persons acting under the authority of the Planning Board as its agents, to enter upon any lands and carry out such surveys and inspections as may be deemed necessary, and place and maintain monuments and marks. As a condition of subdivision approval by the Planning Board, the applicant shall cooperate with the Planning Board and Town officials and assist them in their efforts to verify that the layout, design and construction work in his subdivision are satisfactory and conform to the Town specifications and the requirements of the Planning Board.
13. Approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of streets shown on the Plan.
14. Any modification of this Definitive Plan, other than as authorized by G.L. c. 41, s. 810, shall require modification by the Planning Board in accordance with G.L. c. 41, s. 81W. Failure to comply with this requirement shall result in rescission of the Planning Board's approval.
15. Prior to construction, a street sign shall be erected with a street name approved by the DPW, Police Department, Fire Department and Planning Board.

16. Construction of the proposed subdivision road, proposed drainage system, proposed water system and proposed septic/sewer system shall be supervised by a registered professional engineer who shall certify in writing to the Planning Board and DPW at completion that the proposed subdivision roads, drainage system, water system and septic/sewer system were constructed in accordance with the approved plans.
17. An independent third party inspector employed through the Town shall perform the required construction inspections according to Section 9.0 of the Subdivision Regulations. All required inspections shall take place and be inspected by the inspector including water and sanitary sewage facilities.
18. The certification of the roadway construction and utilities shall be accompanied by as-built plans, signed and stamped by a professional land surveyor and the supervising professional engineer. Prior to issuance of an occupancy permit, a registered professional engineer shall inspect each subdivision lot and certify to the Planning Board and Building Commissioner that the grading conforms to that shown on the approved plan.
19. Prior to a request for street acceptance, the Planning Board shall request its engineer to make an inspection of the street to determine whether or not it should recommend to the Board of Selectmen, the laying out of said street as a public way. If the recommendation is in the affirmative, the Planning Board shall so advise the Selectmen forthwith.
20. These conditions shall be inscribed upon the approved definitive plan prior to endorsement.

**The Board voted to approve the following waivers from the Town of Scituate Subdivision Rules and Regulations on December 14, 2017:**

*Section 6.3.1                      Margin Requirements*

Requirement: 2.5" left side margin and 1" margins on other 3 sides.

Proposed and Voted: 1.5" left side margin and ¾" margins on other 3 sides.

*Section 6.3.3.2                      Cover Sheet*

Requirement: Show all streets, lot lines and easements on cover sheet locus plan.

Proposed and Voted: Show all streets, lines and easements on the appropriate subdivision plan and locus as 1" = 800' as required on the cover sheet

*Section 6.3.3.3f                      Bounds*

Required: Bounds shall be set along each new lot line and change of direction of roadway layout at point sufficient to identify lots.

Proposed and Voted: Bounds set along roadway layout with re-bar and caps set along roadway layout set at lot corners to sufficiently identify lots.

*Section 6.3.3.3, l, m, n Easements*

Required: Show all easements on subdivision plan

Proposed and Voted: All proposed easements are shown in detail on a dedicated easement plan, Sheet 11

*Section 6.3.3.3.h                      Closed Traverse Survey*

Required: Closed Traverse Survey

Required: Open traverse survey tied into perimeter property bounds on the site having an acceptable closure.

Voted: This waiver was withdrawn as closed traverse survey calculations were submitted.

*Section 6.3.3.4. a & b Show Easements*

Required: Show easements on the layout plan and profile

Provided: All easements are shown on the Easement Plan – Sheet 11 and the electric easements shall be provided when National Grid designs the duct bank and transformer layouts.

Voted: All easements to be shown on the Easement Plan – Sheet 11 and the electric easements shall be provided when National Grid designs the duct bank and transformer layouts. The electric easement shall be shown on the as-built plans.

*Section 6.3.3.5.h. Topographic and Grading Plan*

Requirement: Locate existing large trees, having a caliper of 12” or more in areas of disturbance.

Proposed and Voted: Illustrate the existing tree line and the proposed limit of clearing or tree line within the areas of disturbance.

*Section 6.3.3.6 Landscape Plan*

Required: Landscape plan to be stamped by a Registered Landscape Architect

Proposed and Voted: Landscape Plan to be stamped by a professional engineer working with a botanist in the conservation district.

Voted: Requirement for Landscape Plan to be stamped by a Registered Landscape Architect shall not be waived.

*Section 6.3.3.6c Landscape Plan*

Required: Show trees having a caliper of 12” or greater

Proposed and Voted: See waiver 6.3.3.5.h

*Section 6.3.3.6.d Landscape Plan*

Required: Show the cultivated variety of the proposed plantings on the Landscape Plan

Proposed: Show the cultivated variety of the Plans as approved by the Conservation Commission when filing the Notice of Intent

Voted: Waiver request was withdrawn as A Landscape Plan is provided with the named plants.

*Section 7.2.3 Table of Street Dimensions: Roadway Width*

Requirement: Minor Street Type – roadway width of 24 feet.

Proposed: Proposed roadway cross section as depicted in the detail sheets of the FOSD Plans with a roadway width of 24 feet,

Voted: Proposed roadway cross section as depicted in the detail sheets of the FOSD Plans with a roadway width of 24 feet, bituminous berm of 1’, grass strip of 2.5’, sidewalk of 5’ and grass area of .5’ with pavement and gravel depths as shown on the detail.

*Section 7.2.1.8a Curbing*

Requirement: Granite curbing required throughout the subdivision plan.

Proposed: Granite curbing at the entrances and Cape Cod Berm for the remainder subdivision.

Voted: Granite curbing is required at the subdivision entry and drainage structures and not at the cul-de-sacs. 12" Cape Cod Berm for everywhere else.

**The Board voted to approve the following waivers from the Town of Scituate Subdivision Rules and Regulations on January 11, 2018:**

*Section 7.2.6.b Dead End Road Lengths*

Requirement: Maximum length of dead end road – 600feet.

Proposed: Length of dead end road to be 770' to achieve the benefits the FOSD offers.

Voted: This item was held on 12/14/17 to verify the length of the road.

Revised Proposed: The length of the dead end street shall be 723' to achieve the benefits the FOSD offers

Voted: To approve the length of the dead end road as 723'. Voted 1/11/18

*Section 6.8.6 Maintenance Guarantee*

Requirement: 10% of the total value of the work within the subdivision which has been subject to a covenant.

Proposed: 1.5% of all construction costs equaling \$9,420.00 to be rounded to \$10,000.00.

Voted: 1.5% of all construction costs equaling \$9,420.00 to be rounded to \$10,000.00 for the maintenance guarantee.

Mr. Limbacher seconded the motion for discussion. Motion was unanimously approved. Discussion occurred.

***Amended Certificate of Action on the Definitive Subdivision Plan:***

Ms. Burbine moved to approve as amended and discussed the Curtis Estates Definitive Subdivision with the following conditions as noted below:

This is to certify that pursuant to MGL Ch. 41 S 81U, at the Planning Board's regularly scheduled meeting of February 8, 2018, the Planning Board voted to **approve with conditions** the plan entitled Curtis Estates A Definitive Flexible Open Space Development Plan at 90 Ann Vinal Road in Scituate, Massachusetts by Ross Engineering Company, Inc., dated June 14, 2017, with revisions through February 9, 2018 consisting of twenty two sheets, and as further revised to include conditions of the Flexible Open Space Development Special Permit and the Definitive Subdivision Plan as approved by the Planning Board (the Definitive Plan), with members Pritchard, Burbine, Bornstein, Limbacher and Taylor having been present at all sessions of the public hearing or having missed one session with a Mullin Rule Certification filed, voting, subject to the following conditions:

1. All work shall be according to a plan by Ross Engineering Company, Inc. titled Curtis Estates A Definitive Flexible Open Space Development Plan at 90 Ann Vinal Road in Scituate,

Massachusetts, dated June 14, 2017, with revisions through February 9, 2018, with any additional revisions needed to conform to these conditions or those of the Flexible Open Space Development Special Permit.

2. Where a Definitive Plan requires approval, permitting or licensing from any local, state or federal agency, this approval, permitting or licensing will be deemed a condition of the Planning Board's approval, including the Planning Board's approval of work in the layout of Ann Vinal Road.
3. All work shall meet all requirements of the Scituate Subdivision Rules and Regulations dated August 13, 2010 except as specifically waived by the Planning Board or otherwise conditioned in the Special Permit for the Flexible Open Space Development. All conditions of approval and waivers granted shall be inscribed on the plan prior to endorsement.
4. The total number of buildable lots on the site shall not exceed sixteen (16). No lot in the Flexible Open Space Definitive Subdivision may be further divided or subdivided into additional building lots.
5. The applicant, together with its successors and assigns (the Applicant) shall obtain the endorsement of the Planning Board upon the Definitive Plan within 180 days of the date of the expiration of all appeal periods and this decision becoming final. Failure to obtain such endorsement shall result in the automatic rescission of the approval of such plan.
6. The Applicant shall complete the construction of all ways and municipal services within three years of the date of endorsement of the Definitive Plan. Failure to so complete shall result in the automatic rescission of the approval of such plan, unless the Board extends said period, for good cause shown, after the written request of the Applicant prior to the expiration of said period.
7. The Applicant shall construct streets and complete all other work specified on the Definitive Plan or required under these Rules and Regulations, meet all relevant provisions of the Scituate Zoning By-Laws and other By-Laws, including but not limited to installation of all required utilities in such subdivision, and all work incidental thereto, such as grading of lots to provide drainage, construction of walkways, retaining walls and other details, as outlined in Section 7.0 of these Rules and Regulations and as specifically required by the Planning Board, within three years of the date of endorsement of the Definitive Plan.
8. The Applicant shall maintain all streets and utilities within the subdivision, with the exception of water service, except if damaged prior to occupancy permits, until such time as maintenance is performed by the Homeowner's Association. The Town may assess betterments for any work needed to make such streets conform to Town standards prior to acceptance thereof as Town ways.

Street acceptance by the Town shall generally be limited, as to drainage, to the storm drainage system within the street layout. Until a street within a subdivision is accepted by Town Meeting as a public way, all streets, those portions of drainage systems within the street layout and other improvements within the street layout shall be operated and maintained by the Applicant or a Homeowner's Association made up of the residents of the subdivision or their representatives. The sewer/septic line under the street shall remain private in perpetuity and be maintained by the Homeowner's Association.

After a street is accepted by the town, components of the drainage and stormwater management system outside the street layout such as detention/retention devices and their outfalls, drainage swales, and other similar facilities for stormwater management outside the street layout shall continue to be maintained by the Homeowner's Association. The Homeowner's Association is

also responsible for maintaining the private septic/sewer line in the road and Soil Absorption System. The Applicant shall inform the Planning Board within seven (7) days of the date that his/her maintenance responsibilities are assumed by the Homeowner's Association.

9. A Covenant or other form of surety as provided in M.G.L. c. 41, s. 81U to guarantee construction of the road, drainage improvements and any additional on or off site improvements agreed to by the Applicant, shall be provided to the Planning Board prior to endorsement of the Definitive Plan by the owners of record of the land in the subdivision. This Covenant shall run with the land and be binding upon the owner(s) and their successors in interest. Upon approval of the covenant by the Planning Board, reference thereto shall be inscribed upon the plan and it shall be recorded with the covenant at the expense of the Applicant. The town must be provided recorded copies of decisions, drawings and covenants within five (5) days of recording. No site work or construction shall commence without the recorded information being provided to the Town.
10. In addition to the Covenant normally required to secure the construction of ways and installation of municipal services, the Planning Board shall require, prior to the endorsement of the Definitive Plan, a supplemental covenant containing those conditions of approval that are intended to survive the release of the Statutory Covenant. Such covenant shall be approved as to form by the Planning Board Legal Counsel. Such covenant shall be executed and duly recorded by the owner(s) of record, and shall run with the land. The covenant shall be referenced on the Definitive Plan prior to recording in the Registry of Deeds.
11. An easement shall be provided allowing a Homeowner's Association access to drainage and stormwater management systems and the private septic/sewer line and Soil Absorption System which will be privately maintained to allow inspection, maintenance and repair, and allowing the town access in case of an emergency, or to test water quality if this is deemed in the public interest.  
  
The Applicant shall also grant to the Town of Scituate, a right and easement to construct, repair, replace, extend, operate, use and forever maintain all streets, water mains, sewer mains, and all surface and subsurface storm water drains in, through or under the streets and easements as indicated on the Definitive Plan. The above shall not be construed to relieve the Applicant, and his successors in title, to the ownership of a portion of the land or any street within the subdivision, nor diminish in any way, his responsibility to complete all construction as required by the Applicant's agreements with the Town and to thereafter maintain all streets and utilities in satisfactory condition unless and until they are accepted by the Town.
12. The Applicant shall consent to allow members and employees of the Planning Board and other persons acting under the authority of the Planning Board as its agents, to enter upon any lands and carry out such surveys and inspections as may be deemed necessary, and place and maintain monuments and marks. As a condition of subdivision approval by the Planning Board, the Applicant shall cooperate with the Planning Board and Town officials and assist them in their efforts to verify that the layout, design and construction work in his subdivision are satisfactory and conform to the Town specifications and the requirements of the Planning Board.
13. Approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of streets shown on the Plan.
14. Any modification of this Definitive Plan, other than as authorized by G.L. c. 41, s. 810, shall require modification by the Planning Board in accordance with G.L. c. 41, s. 81W. Failure to comply with this requirement shall result in rescission of the Planning Board's approval.
15. Prior to commencement of work, a street sign shall be erected with a street name approved by the

DPW, Police Department, Fire Department and Planning Board.

16. Construction of the proposed subdivision road, proposed drainage system, proposed water system and proposed septic/sewer system shall be supervised by a registered professional engineer. Said supervising engineer shall certify in writing to the Planning Board and DPW at completion that the proposed subdivision roads, drainage system, water system and septic/sewer system were constructed in accordance with the approved plans.
17. An independent third party inspector employed through the Town shall perform the required construction inspections according to Section 9.0 of the Subdivision Regulations. All required inspections shall take place and be inspected by the inspector including water and sanitary sewage facilities. Weekly written reports, if any, shall be submitted to the owner and the Planning Board stating results of any and all required inspections.
18. The certification of the roadway construction and utilities shall be accompanied by as-built plans, signed and stamped by a professional land surveyor and the supervising professional engineer. Prior to issuance of an occupancy permit, a registered professional engineer shall inspect each subdivision lot and certify to the Planning Board and Building Commissioner that the grading and stormwater management conforms to that shown on the Definitive Plan.
19. Prior to a request for street acceptance, the Planning Board shall request its engineer to make an inspection of the street to determine whether or not it should recommend to the Board of Selectmen, the laying out of said street as a public way. If the recommendation is in the affirmative, the Planning Board shall so advise the Selectmen forthwith.
20. These conditions shall be inscribed upon the approved Definitive Plan prior to endorsement.

**The Board took the following actions on the Applicant's requested waivers from the Town of Scituate Subdivision Rules and Regulations on December 14, 2017 as follows:**

*Section 6.3.1                      Margin Requirements*

Requirement: 2.5" left side margin and 1" margins on other 3 sides.

Proposed and voted: 1.5" left side margin and ¾" margins on other 3 sides.

*Section 6.3.3.2                      Cover Sheet*

Requirement: Show all streets, lot lines and easements on cover sheet locus plan.

Proposed and Voted: Show all streets, lines and easements on the appropriate subdivision plan and locus as 1" = 800' as required on the cover sheet

*Section 6.3.3.3f                      Bounds*

Required:        Bounds shall be set along each new lot line and change of direction of roadway layout at point sufficient to identify lots.

Proposed and Voted: Bounds set along roadway layout with re-bar and caps set along roadway layout set at lot corners to sufficiently identify lots.

*Section 6.3.3.3, l, m, n Easements*

Required:        Show all easements on subdivision plan

Proposed and Voted: All proposed easements are shown in detail on a dedicated easement plan, Sheet 11

*Section 6.3.3.3.h                      Closed Traverse Survey*

Required: Closed Traverse Survey

Required: Open traverse survey tied into perimeter property bounds on the site having an acceptable closure.

Withdrawn: This waiver request was withdrawn as closed traverse survey calculations were submitted.

*Section 6.3.3.4. a & b Show Easements*

Required: Show easements on the layout plan and profile

Provided: All easements are shown on the Easement Plan – Sheet 11 and the electric easements shall be provided when National Grid designs the duct bank and transformer layouts.

Voted: All easements to be shown on the Easement Plan – Sheet 11 and the electric easements shall be provided when National Grid designs the duct bank and transformer layouts. The electric easement shall be shown on the as-built plans.

*Section 6.3.3.5.h. Topographic and Grading Plan*

Requirement: Locate existing large trees, having a caliper of 12” or more in areas of disturbance.

Proposed and Voted: Illustrate the existing tree line and the proposed limit of clearing or tree line within the areas of disturbance.

*Section 6.3.3.6 Landscape Plan*

Required: Landscape plan to be stamped by a Registered Landscape Architect

Proposed and Voted: Landscape Plan to be stamped by a professional engineer working with a botanist in the conservation district.

Voted: Requirement for Landscape Plan to be stamped by a Registered Landscape Architect shall not be waived.

*Section 6.3.3.6c Landscape Plan*

Required: Show trees having a caliper of 12” or greater

Proposed and Voted: See waiver 6.3.3.5.h

*Section 6.3.3.6.d Landscape Plan*

Required: Show the cultivated variety of the proposed plantings on the Landscape Plan

Proposed: Show the cultivated variety of the Plans as approved by the Conservation Commission when filing the Notice of Intent

Withdrawn: Waiver request was withdrawn as A Landscape Plan is provided with the named plants.

*Section 7.2.3 Table of Street Dimensions: Roadway Width*

Requirement: Minor Street Type – roadway width of 24 feet.

Proposed: Proposed roadway cross section as depicted in the detail sheets of the FOSD Plans with a roadway width of 24 feet,

Voted: Proposed roadway cross section as depicted in the detail sheets of the FOSD Plans with a roadway width of 24 feet, bituminous berm of 1', grass strip of 2.5', sidewalk of 5' and grass area of .5' with pavement and gravel depths as shown on the detail.

*Section 7.2.1.8a Curbing*

Requirement: Granite curbing required throughout the subdivision plan.

Proposed: Granite curbing at the entrances and Cape Cod Berm for the remainder subdivision.

Voted: Granite curbing is required at the subdivision entry and drainage structures and not at the cul-de-sacs. 12" Cape Cod Berm for everywhere else.

**The Board took the following actions on the Applicant's requested waivers from the Town of Scituate Subdivision Rules and Regulations on January 11, 2018 as follows:**

*Section 7.2.6.b Dead End Road Lengths*

Requirement: Maximum length of dead end road – 600feet.

Proposed: Length of dead end road to be 770' to achieve the benefits the FOSD offers.

Held: This item was held on 12/14/17 to verify the length of the road.

Revised Proposed: The length of the dead end street shall be 723' to achieve the benefits the FOSD offers

Voted: To approve the length of the dead end road as 723'.

*Section 6.8.6 Maintenance Guarantee*

Requirement: 10% of the total value of the work within the subdivision which has been subject to a covenant.

Proposed: 1.5% of all construction costs equaling \$9,420.00 to be rounded to \$10,000.00.

Voted: 1.5% of all construction costs equaling \$9,420.00 to be rounded to \$10,000.00 for the maintenance guarantee.

Mr. Limbacher seconded the motion as amended and discussed; the vote was unanimously approved.

**Old Business and New Business**

- Mr. Pritchard scheduled to attend the capital planning meeting on 2/28 he will be attending with Brad Washburn.

These items were distributed to the Board electronically.

Mr. Limbacher moved to adjourn the meeting at 10:21p.m. Mr. Taylor seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Shari Young  
Planning Board Administrative Assistant

Benjamin S. Bornstein, Clerk

Date Approved 2/22/18