

## **SCITUATE PLANNING BOARD      MINUTES      October 12, 2017**

Members Present: Stephen Pritchard, Chairman; Ann Burbine, Vice Chairman; Benjamin Bornstein, Clerk, William Limbacher and Richard Taylor

Others Present: Town Planner Karen Joseph.

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 7:00 P.M. The meeting was being recorded for airing on local cable television.

### **Documents**

- 10/12/17 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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### **Continued Public Hearing - Residential Cluster Special Permit – off Hatherly and Tilden Road Seaside at Scituate)**

**Assessor's Map/Block/Lot 46/10/7F**

**Applicant: Toll MA Land III Limited Partnership, c/o Toll Brothers**

**Owner: Suburban Realty Trust, Benjamin Goulston, Trustee**

### **Documents**

- PDF of letter from Ohrenberger, DeLisi & Harris, LLP dated 9.21.17
- PDF of letter from Toll Brothers to the Board regarding Horsley Witten, dated 9.21.17
- PDF of letter from Toll Brothers to the Board regarding Horsley Witten, dated 9.21.17
- PDF of Seaside at Scituate landscape plan dated 9.21.17
- PDF of Seaside at Scituate plan dated 9.21.17
- PDF of Seaside at Scituate Water Plan dated 9.29.17
- PDF of Seaside at Scituate Phasing Plan 10.2.17
- PDF of Seaside at Scituate Fire Truck Turning Plan 10.2.17
- PDF of letter from Horsley Witten to the Board dated 10.5.17
- PDF of letter from DPW dated 10.4.17
- PDF of Seaside at Scituate Draft RAM Plan dated 10.3.17
- PDF of letter from Santect to the Board dated 9.29.17
- PDF of letter to the Board of Health regarding RAM dated 10.3.17
- PDF of letter to the Board from Toll Brothers dated 10.5.17
- Email from Sean Anderson to Karen Joseph dated 10.6.17
- Email from Sean Anderson to Karen Joseph and Kevin Cafferty dated 8.30.17
- PDF of letter from Vanasse & Associates, Inc. dated 9.22.17
- PDF of letter from Vanasse & Associates, Inc. dated 10.4.17
- PDF of Seaside at Scituate Cut Fill Map dated 7.4.17
- Transmittal letter dated 9.28.17

Attendees: Bill Ohrenberger, Attorney; Jeff DeLisi, Attorney; Dave Bauer, Divisional President; Scott Miccile, Toll Brothers Engineer; Dave Buckley, Project Manager Toll Brothers; Kevin Klein,

Stantec Stormwater Engineer; Jim Ash, LSP Environmental Consultant; Mark Manganello, Wetlands Specialist; Erin Furdette, Traffic Engineer, Paul Mirabito, Engineer Consultant

Mr. Pritchard noted the power point presentation showing by Toll Brothers, but indicated he would prefer to start the meeting by addressing open issues from previous meeting of August 24, 2017.

Mr. Pritchard introduced Ms. Janet Bernardo from Horsley Witten to address some of the open issues.

*Stormwater:*

Ms. Bernardo indicated she met with Stantec and reviewed the drainage concept and stormwater design. She said as it stands it meets the Massachusetts standards, however the basins are very large and the Conservation Commission has asked to have the design changed to have more runoff to the wetlands. She said Conservation wants a little more water to the wetlands to make sure they are viable and more water to Satuit Brook. She indicated the stormwater can be redesigned to address this, but has not been done so at this time. Ms. Bernardo recommended that after such a redesign the Board would want to have a complete review to make sure it meets the standards as well as making sure all the technical aspects are correct. She indicated the plans do meet the standards now, but the basins are very large and it would be desirable to reduce their size.

Mr. Pritchard indicated he read a recommendation from Ms. Bernardo about the roof downspouts. Ms. Bernardo said she wanted to make sure that when the stormwater is redesigned there is not just a gutter to the downspouts because that would go directly to the catch basin that would mix dirty water with clean water. Mr. Pritchard said it will be addressed with the final design.

Mr. Ohrenberger said there appears to be a miscommunication and the applicant is not redesigning the stormwater because the stormwater bylaw has no waiver provision and the bylaw does not allow for more water to leave the site. Mr. Pritchard said he does remember having the conversation and his understanding was that the water flow would be maintained to Satuit Brook as it exists today and was not sure the current design did that. Ms. Bernardo said she did not understand it that way.

Mr. Klein indicated they have added sidewalks which will change the stormwater and they are doing all those calculations, they are also rebalancing the site to direct all the stormwater to the south which goes to the Satuit Brook. He said they are not redesigning the basins, but rebalancing the site to take it away from the east and Hatherly and towards where they are trying to maintain flow. He said they will adjust for any other changes. Mr. Pritchard opined that there will be a final tweak on the design. Mr. Klein said yes that is correct.

Mr. Gallivan from Conservation indicated that increasing the water to Satuit Brook came up in Conservation proceedings and it would be a favorable action; but under the state law and bylaw all stormwater needs to be captured on site. He said there is some flow coming from the north street drainage and pipes onto the site and could that amount of water be taken to the brook. Ms. Bernardo said it is tricky, because it makes it difficult to prove what is happening. Mr. Gallivan said it would equalize the flow, but it does not have to happen it was just a question. Ms. Bernardo said what the analysis needs to show is wherever the water is coming from now should balance out in the end, where the water is flowing off site now it should continue to flow off site in the same manner. Mr. Pritchard said they cannot increase volume off the perimeter nor the velocity of flow.

Mr. Bauer indicated that they have been trying to address stormwater on this property for two years. He said they have done a lot of engineering, spent a lot of money and the design is as shown and they don't want to have that water be the cause for redesign. He said they are essentially done with the design and they are making some final tweaks and they will submit the final plan later this month, but from their perspective they are at their final design. Mr. Pritchard said he can appreciate that, but the peer review comments will need addressing and he does not know if that will affect the applicant's final design.

Mr. Pritchard asked Mr. Gallivan what kind of improvements can be provided under the scenario. Mr. Galvin indicated it was part of the discussion of mitigation to improve Satuit Brook. He said if it were a major redesign it would be out the question; however he said the Commission has not made any decisions, but it came up as a question.

Mr. Pritchard asked the applicant's stormwater engineer how much of the volume is going to Satuit Brook before and after; is it a one-to-one, is it 80% before development. Mr. Klein said he does not know the number, but probably around 80% which is what they are trying to rebalance to get more to go to the south. He said it is difficult with the bylaw because it needs to be designed for a 100 year storm and not increase flow which makes it difficult to not decrease it substantially for a 1 year storm. He said they are doing the basins with overflows and they will overflow at the 100 year storm and possibly the 25 year storm and will have adjustable overflows to try and balance flow as close to existing as they can.

Mr. Taylor clarified there is no redesign of the basins they will stay the same size. Mr. Klein said they will stay the same size.

Ms. Bernardo said the report will be redone so it will be further reviewed.

Mr. Pritchard indicated that part of the rebalance is to keep the volume to Satuit Brook consistent.

Mr. Pritchard opened stormwater questions up to the public. There were none.

*Traffic:*

Ms. Bernardo said Vanasse & Associates (VA) provided a letter to the Board on October 4, 2017 in response to the applicant's traffic study. She said there are five outstanding items and asked the applicant to address them with the Board. Ms. Bernardo did say that the width of the road and boulevard is of concern and should be addressed by the Board.

Ms. Furdette with McMahon Associates spoke on the applicant's behalf to address issues in the letter.

1. VA recommends installing, a rectangular rapid flashing beacon (RRFB) at the crosswalk at Hatherly.
  - a. Applicant is proposing a crosswalk at the intersection of Road A and Hatherly Road with conventional signing.
    - i. VA is suggesting the RRFB due to the speeds on Hatherly.
      1. Ms. Furdette opined speed is one thing to consider, but also site distance and volume of both traffic and pedestrians.
      2. Ms. Furdette said given the type of development expect pedestrian traffic would be more recreational spread out throughout the day.
  - b. Vehicular traffic the maximum peak hour during the week was about 300 cars

- i. 300 cars/hour, is about 5 cars/minute
- c. Ample opportunity to cross Hatherly, the volume does not really require the flashing beacon to interrupt the flow, plenty of gaps.
- d. RRFB's are new and there are not specific guidelines on these devices
- e. Site distance is very flat and straight
- f. Roadway is very narrow, anticipate it take someone 9-10 seconds for someone to cross the street

Ms. Furdette opined that the RRFB is not necessary in this situation and conventional signage with the stripping should be adequate. Mr. Pritchard said this difference of opinion should be discussed with VA. Ms. Bernardo said the Police Department may be concerned with the speeds on the roadway and the development being a senior area. She indicated that if there is no warrant for the RRFB it will become a decision that town will have to make.

Mr. Bauer said that with all these items the intention would be to circle back outside the meeting and come to an agreement with a unanimous recommendation to the Board.

2. Roadway widths and boulevard

- a. VA notes the NFPA code is 20' width minimum for all fire access roads
  - i. Ms. Furdette said there is an amendment to the code, Massachusetts Fire Safety Code which also proposes a 20' width minimum, which they are proposing throughout the site. VA called out the roads on both sides of the median of Road A which are each 11' and totals more than 20'.
  - ii. Ms. Furdette said there is an exception for a boulevard style roadway lanes can be less than 20' but must be at least 10' wide.
    - 1. Ms. Bernardo said there is another line that states it cannot be less than 10' wide if it is going to a building or structure.
    - 2. Road A does go to the 20' width prior to any buildings
    - 3. There are 2 other access roads to the community
  - iii. Ms. Joseph indicated Mr. Al Elliot said the inside turn radius needs to be at least 25' for the fire trucks to turn around.
    - 1. Inside into the boulevard off of Hatherly Road
    - 2. Hammerheads are being redesigned to address Fire Chief's comments

Ms. Bernardo and Ms. Furdette to circle back with VA to come to consensus.

Ms. Furdette confirmed that all additional data collection has been submitted to Vanasse Associates and there have been no further comments.

*Public Comment on Traffic:*

Ms. Laura Curtain resident of 58 Kenneth Road said that she is concerned that there is no traffic light at the crossing of Hatherly Road. Said there is high volume on that road, it is difficult to pull out and there are lots of near misses.

*Draft Remediation:*

Mr. Pritchard said the Board has received a draft remediation plan and a rationale for why the applicant feels they do not need to re-notify MassDEP. Ms. Bernardo indicated they have just received the information and have not had a chance to review. Mr. Pritchard said these are still open items.

*Cut and Fill analysis:*

Mr. Miccile presented a slide with the analysis. He indicated “red” is cut, “orange” is cut and has varying degrees, and “blues” are fill locations and have varying degrees. Mr. Pritchard asked what the net is. Mr. Miccile said they have not done all those calculations, but they do think it will be a net import, but they do not have it assessed. Mr. Pritchard said it looks like the housing along the south side will be raised. Mr. Miccile said yes and the elevations on the site are being driven by the high ground water table. He indicated the stormwater basins are almost at existing grades and that drives the whole system, size of the pipes, etc. need to work backwards and raise some of the site to get the water to go where it wants to be. Mr. Miccile said the high water table drives the earth work on the site. He indicated that DEP regulations require the basins to be 2’ above seasonal high ground water they then work backwards with the pipe networks to get the water down to the basins. He also indicated there is a wetland at grade that is driving the elevations and there are no basements into the ground water table.

Mr. Pritchard opined there is very little being regraded on the site. Mr. Miccile said that is correct, due to the size of the basins and the earthwork being done on the site. He said they are able to preserve the buffer area all along the perimeter. Mr. Miccile said they will give a calculation for the fill.

Mr. Pritchard asked if the draft RAM will address dust. Mr. Miccile said yes.

*Phasing:*

Mr. Miccile presented a slide that indicates the phases of development they are proposing.

- 2 Phases – blue represents Phase I, green represents Phase II
- Phase I – get road connection all the way through, build all detention basins in the area.
- Remediation in the RAM plan all in Phase I
  - Remediation would be one of the first things done on the site
- Single family units would be Phase I as well, would be worked on as they are sold.
- Road to Ermine would not be built until Phase II, but there would be two accesses to get into the site.

Ms. Joseph asked the applicant if they would delineate which of the homes will be built in Phase I. Mr. Bauer indicated they build as they sell, they will offer a mix of home sites that address the wants and needs of the customer. He said there will be a logical sequence to it, but they will be looking to market Phase I immediately. He said it will be based on market demand and they need be agile in order to react to the demands of the market.

Mr. Pritchard asked how much of the remediation, earthwork and infrastructure will be done before they start building a house. Mr. Bauer said certainly before they are ready to occupy the homes everything would be done. He said they would expect to start pre-selling from a location, i.e. a sales

trailer as Mr. Miccile's team is working on infrastructure, etc. and they are signing purchase and sale agreements, they may start on foundations, but by the time they were ready to occupy the homes everything would be complete in Phase I. Mr. Pritchard said it is not a stop and start work on the earthwork and infrastructure, it is only the building locations. Mr. Bauer said yes that is correct.

Ms. Bernardo had no comments on environmental impacts at this time.

Ms. Burbine indicated she has a concern of Phase II with the length of the road that is a dead end which is almost as long as the roadway from Tilden to Hatherly, there will be a lot of heavy equipment, construction with only one way in and out. Mr. Bauer pointed out that is not a dead end, but the emergency access and they will not be going over that road with trucks. Mr. Bauer said they will strategically build out and if someone were to buy a home in a different location they would be asked to sign an agreement that they are in a construction zone, with the understanding of construction work and traffic. Mr. Pritchard asked to hold the discussion for construction and sequencing for later.

*Public Comments:*

Mr. Sean O'Connor of 132 Tilden Road, asked with the dirt that is being brought in will it change the perspective from the street view of what the homes look like and will they be very high. Mr. Bauer presented a slide that showed a digital rendering of the final grading, architecture and siting of the homes. He indicated that the images shown are not artist's renderings, but an exact perspective of the grading. Ms. Joseph indicated the slope of the roadway was about 7% and the driveways looked steep. Mr. Bauer said the driveways are about 3%-5% gradient which is very flat. He presented a slide showing the entrance to the site with the exact grading, architecture, etc. looking from Hatherly Road. Ms. Joseph said that Roadway A is at 7% for a large portion and concerned it might be rather steep for a 55+ development. Mr. Bauer opined that 7% is not a concern to them; they do not want to turn away customers.

Mr. O'Connor asked what the development would look like from Tilden Road and how deep the drainage basins are. Mr. Bauer indicated the answer would be in the landscaping plans. He said there is not a lot of natural buffer. He said similar to the entrance on Hatherly there will fencing with piers, trees and new planted material. Ms. Bernardo interjected that Mr. O'Connor was speaking of the detention basins. Mr. O'Connor wanted to know if there would be fences around them. Mr. Miccile said the basin is only 4' deep and can only hold water for less than 72 hours per MassDEP.

Mr. O'Connor asked what the tree situation is, will the applicant just clear cut and then put in all new trees and shrubs. Mr. Bauer said trees will be cut, but they do have a landscaping plan that has substantial trees and shrubs and it will look lush after a few years. Mr. Pritchard said the area that is being developed will be clear cut and there is a 50'-60' buffer that remains. Mr. Miccile indicated that 60' setback is in the bylaw. Mr. Ohrenberger said it will be disturbed, but it is vegetated. Mr. Bauer indicated that they have a limit of clearing that is established in there plan, but they will reconfirm what can be done in the setback and they will replant where it is it logical in terms of having a natural buffer; he said it is being cut there is no way to get around it.

*Public Comments:*

Elise Kline of 675 Chief Justice Cushing Highway asked how much the homes will be selling for. Mr. Bauer said homes will range from 1,800 – 3,000 sq. ft. with a price range from \$500,000 up. He

said they have several communities with average pricing is currently in range the \$500,000 - \$700,000.

*Design Review Committee (DRC):*

Mr. Pritchard said there was a DRC meeting on September 18, 2017. He said there was some feedback from DRC, but part of the feedback was the DRC did not feel they had enough information to address a number of issues. Mr. Ohrenberger said the applicant will be setting up another meeting with the DRC and they will have material boards to review for the next meeting. Mr. Pritchard indicated the DRC was looking for information on siding style, roofing, trim, etc. Mr. Ohrenberger said all that information has been provided digitally, but the DRC is requesting actual samples of materials. Mr. Buckley indicated the applicant has created a sample board that they intend to present to the DRC. Ms. Joseph indicated she is trying to set up the meeting for October 24, 2017.

Mr. Taylor indicated the DRC commented on elevations and asked the applicant if they would be providing that information. Ms. Joseph further clarified the DRC is looking for a physical elevations verses the graphics. Mr. Buckley said that architectural elevations were submitted in addition to 3-dimensional images. He said that one of the members had asked about a physical model, the applicant generally does not provide 3D models. He said images of the actual products being used were reviewed at the last DRC meeting. Ms. Joseph to check with DRC regarding information for elevations being submitted. Mr. Washburn asked if there was possibility to get an interactive 3D model. Mr. Bauer said they can provide more vantage points, 20-30 points. Mr. Pritchard indicated it would be good to get DRC to give locations that they would be interested in seeing. Mr. Bauer said there are substantial resources used to create what they have and would like to give what has been produced to date. Mr. Pritchard agreed to start with what has already been developed.

Ms. Burbine indicated she would be like to know the elevation in relation to the streets, either Hatherly or Tilden. Mr. Bauer said the plans show the elevations. Ms. Burbine said she wants to know what the finished height of the buildings with the 8'-10' of fill is. Mr. Bauer said the plans provide building by building height differentials from wherever one looks. He said all the data has been worked out and elevations are in the plans. Ms. Burbine asked specifically are the houses 35' tall plus the fill. Mr. Bauer said every home in the plan has a top of foundation elevation wall on it; all houses will be compliant with the zoning, approximately 35' tall. Mr. Taylor opined he thought the images were a little confusing and did not realize the homes that are shown are the homes to be built embellished with trees. He said it won't look like this day one. Ms. Burbine indicated she just wanted to know the height of the house because this will dominate the neighborhood as well as the Form A's across the street; they will be very tall. Mr. Bauer said all will be in line with the zoning bylaws. Mr. Bauer indicated it is an engineering necessity to have to fill and raise the ground level. Mr. Pritchard indicated that the applicant has pre-existing architectural views and they will provide additional views to the Board.

*Public Comments:*

Ms. Laura Curtain resident of 58 Kenneth Road opined her understanding that the view from Tilden Road and the 60' set back is that the trees in the setback would not be cleared. Mr. Bauer said the setback is not a non-disturbance set back and there will be clearing and grading in the setback where it needs to be and where it is shown on the plans. He said that where they can avoid it they will, but the clearing and grading is allowed within the 60' setback. Ms. Curtain asked what percentage they anticipate leaving. Mr. Bauer said it will vary all over the site. He indicated that looking at the plan they will clear and grade right up to Tilden and then replant, which is on the landscaping plans. He

said more existing vegetation will be left on Hatherly due to existing wetlands. Mr. Pritchard said he would like to understand how much will be non-disturbed and will address when reviewing the landscaping plan.

*Infrastructure:*

Ms. Bernardo indicated that the Horsley Witten letter made recommendations on some technical information that the applicant was able to respond to. She indicated there are a number of items that fall under the Water & Sewer Departments control.

1. Looping
  - a. DPW wants lines to loop, plans not currently showing that
2. Acceptance by the Town's departments

Mr. Pritchard indicated the Board was in receipt of a letter from the DPW regarding sewer and water capacity and engineering studies for both systems and that the applicant received it today as well, but did not think it could be reviewed right now. Mr. Ohrenberger indicated that the applicant will be having a meeting with their engineers and DPW. He said that on point #3 the independent 3<sup>rd</sup> party inspector is already figured into the Applicant's plans. He indicated with regards to items #1 and #2 work has already been submitted to the DPW and will discuss what in addition the DPW is in need of. Mr. Pritchard said from a planning perspective the Board looks at how to assess the larger connections to water and sewer given the limitations on both in the town and how do we manage for all and do an adequate analysis going forward. Mr. Ohrenberger indicated the Water & Sewer Commission has already issued the capacity for both water and sewer for the project. Mr. Pritchard said he has read the letter from Water & Sewer Commission, but he opined the analysis was a gross level analysis and that is not the analysis they are talking about. He said they are looking for is what is the capacity of the system in a stress condition to supply water not just for Toll Brothers, but for any other development and establish that as the analytical method, because the current method doesn't really address the issue. He said for sewer what are the Inflow and Infiltration (I&I) improvements needed to address capacity. Mr. Ohrenberger said the Water & Sewer Commission has already voted on this. Mr. Pritchard said the Board needs to make the decision on the site plan and part of that is to determine if there is adequate infrastructure available. Mr. Ohrenberger said he would take this to the Selectmen. Ms. Bernardo opined that what she read from the letter was the Selectmen said there was capacity in the water treatment plant, but the Water & Sewer department wants to make sure the pipes going through the road are amply sized going to and from the site to the plant to the well. Mr. Pritchard opined he does not think that was the comment, especially with regards to water. He indicated he has meet with the Water Department and if you take a certain permitted capacity in town and last year only used this much, therefore capacity is available it does not do justice to the variable nature of the water supply system and where it is stressed. He said what the Board is trying to do is determine the right analysis to determine if the capacity exists for any new development. He opined that the letter also asked what I&I activities will generate the additional capacity that's being created by this development. Mr. Ohrenberger indicated the applicant has already done 2 years' worth of engineering that was submitted and approved. Mr. Pritchard said he has been in conversations with the Water Department and the Board needs to evaluate ongoing demands for additional water supply in context of some severe years and should be assessing not only overall capacity, but summertime stress periods, to determine if there is the capacity to handle the development.

*Public Comments:*

Mr. Jeff Kalla resident of 28 Kent Street asked how does the general public understand how the analyses made on water and sewer applies to one developer, but to other developers or even existing



homes who have been denied to tie into the sewer system. He also inquired if the roadways were going to be private in the development. Mr. Pritchard replied correct they will be private. Mr. Kalla asked who will be responsible for the maintenance of the water and sewer facilities on the property. Mr. Bauer indicated the condominium association will maintain the infrastructure. He said the town will have no culpability, but typically will have an easement to make sure maintenance is done properly.

Mr. David O'Connor of 13 Grasshopper Lane said that since the sewer system was started many years ago it progresses and then stops to increase capacity then progress again and stops again to increase capacity at the treatment plant. He asked if this project will increase capacity so that work on extending the sewer system will stop or be delayed and is there new sewer service being provided to a new place while failing to take care of existing homes. Mr. Pritchard deferred this discussion to the Water & Sewer Commission. He opined what the Board understands from the current situation is that the sewer discharge from these homes is intended to be fully offset by investments in the elimination of infiltration and inflow (I & I) to the existing system, freeing up capacity that is otherwise being taken by leaks coming into the system. He said that from reading the DPW letter there is specific information for I&I activities that are going to create the capacity. Mr. Bauer indicated that the Applicant has already had a public hearing with the Selectmen to review the analysis done on capacity and issues in question. He said that their analysis says the capacity is there today for this community. He said the fees and financial impact of the development is going to create funds for I & I and additional mitigation so that additional capacity is created and the schedule for other residents to be connected can be expedited. Mr. Pritchard indicated that the Board does not have anything on the Selectmen's decisions; he does have a letter from the Water Department with their assessment. Ms. Burbine said she had attended the Selectmen meeting for the sewer capacity for the 90 units. Ms. Burbine said the Selectmen gave the applicant \$1.2 million which represents \$14,000.00/unit; the 1.2 million was to enable the town to deal with I & I. Ms. Burbine indicated that was 90 units and 2 yrs. ago. She indicated she was at the Selectman meeting and it was changed to 142 units and there was no mention made of money. She said that 142 units at \$14,000/unit is a bit more than \$1.2 million. Mr. Ohrenberger said with all the documentation the number is still \$1.26 million and the number of bedrooms in this is less than the prior project. Ms. Burbine said this is hooking up units not bedrooms. Mr. Ohrenberger said the Selectmen voted on the 90 units and the Board should look at the documentation. Mr. Pritchard opined that he thought the Selectmen did go back and address this issue on the sewer, but the Board has not seen anything in writing. Mr. Ohrenberger said that the Selectmen said there was adequate capacity for the water and that the former Town Administrator and the Director of the Water Department gave the applicant the letters. Mr. Pritchard indicated that he does have an email. He said they have had lengthy conversations with the Water Department about the capacity and how it should be analyzed. Mr. Ohrenberger said this has all been well documented and he will get the information to the Board.

*Public Comments:*

Ms. Carly Desmond of 38 Thomas Ave. said that she read in the Scituate Mariner that the water would only be for household use and not for irrigation. Mr. Pritchard said that is correct. She asked how the residents will know that water cannot be used for landscaping, etc. Mr. Bauer indicated they will build wells on site to irrigate. Mr. Pritchard said the Board would like to hear how much water is being talked about since it is still coming out of the ground water aquifer. He also asked what kind of water conservation is being planned, i.e. low flow toilet, low flow shower heads, etc. Mr. Bauer indicated that they would all be within code compliance for fixtures within the home. He said they comply with building code and do not further restrict the use of water. The applicant will give the Board additional information on the fixtures. Mr. Bauer also indicated they will be able to

quantify irrigation usage. He said they do try to plant tolerant species. The applicant is to get back to the Board on the irrigation coverage.

Ms. Curtain of 58 Kenneth Road, indicated that at a previous meeting it had been mentioned to use an environmentally friendly irrigation system, i.e. rain water, catch basins, stormwater runoff, is that still a consideration. Mr. Bauer said that they did evaluate the use of basins, but the stormwater design is not conducive to use for irrigation. He said they will be using wells and will work with the Health Department to permit the wells.

Ms. Jacki Bohn of 16 Carver Ave. said that she is in agreement with Ms. Burbine that there is a pricing difference between the 90 units and 142 units, at the \$1.2 million. She said the 140 units is almost twice as much, \$1.998 million and the discrepancy really needs to be taken into consideration. Mr. Limbacher said the question is, is the common denominator bedrooms or units. Mr. Bauer said the analysis they have done has always been about bedrooms and has been discussed at public meetings, etc. He said they have self-imposed an age restriction so there is a net benefit to the town with tax surplus. He mentioned that part of the equation was per bedroom flow allotment analysis and the \$1.2 million fee for the project and paying it sequentially with the towns I & I work. Mr. Bauer said there have been a lot of conversations where the fee was discussed and based on bedrooms.

Mr. O'Connor of 13 Grasshopper Lane asked since the age restriction is self-imposed if it could be lifted at any time. Mr. Pritchard indicated there will have to be an in perpetuity clause that the community will always be 55 years and older.

Mr. Pritchard said there is some follow up work to do with the Water & Sewer Department. He asked that the applicant let him know when that happens so that maybe someone from the Board can be there as well.

Mr. Pritchard confirmed with Ms. Bernardo that Horsley Witten will review comments on the water flow tests and their validity and they are just waiting for resolution.

#### *Zoning:*

Ms. Bernardo indicated there was a lengthy letter regarding the zoning, but she has pulled out a few items for discussion.

1. Purpose of the Residential Cluster District
  - HW deferring to the Board, the Applicant has stated they have provided a narrative already
  - Board to decide if the narrative is appropriate
2. Information different Boards will need to address
  - Nature Trail – not HW jurisdiction
  - Sidewalks and pedestrian path
    - Applicant proposing sidewalks on one side of the street throughout
    - Applicant proposing nature walk through the development
    - Will need to get sign off from Conservation Commission
3. References to Home Owners Association
  - Document with what HOA is responsible for, etc.
    - Infrastructure, stormwater drainage, utilities
    - HW recommendation to have Town Legal Counsel review

- Applicant was not aware they need to submit prior to this process of review with the Board
  - Applicant said they can get draft to the Board within next few weeks
  - Board agrees a draft document is needed
- 4. Utility easements in the HOA
  - HW comment - residential units on other side of Hatherly Road
    - Sewer line in the back of them
    - Individual easements since not part of the HOA
- 5. Erosion Control plan that needs to be completed
  - Follow EPA's NPDES Permit and Stormwater Pollution Prevention Plan
- 6. Responses from Fire and Police Departments
  - HW recommend Board gets letters of acceptance of road layout, hammer head, lots, fire hydrant locations, etc.
- 7. Width of the roadways
  - HW recommend Board make decision on if width is acceptable
    - DPW should be involved if there is potential for Town to plow
    - Fire Department input for size for fire equipment
    - Ms. Bernardo's point of view from stormwater and green space, likes narrower roads, but comes down to safety. Fire Department should make the call.
  - HW recommendations made according to Subdivision Rules and Regulations
    - Applicants response they are private roads so do not need to follow
    - Road thickness needs to be appropriate so not issues 10 years from now, but applicant's choice since private roads
    - Mr. Pritchard requested notes be made where there are deviations from the Subdivision Rules and Regulations and then Board can make a decision.
- 8. Driveways and regulations
  - Driveway should be 65' away from and intersection
  - Safety concerns where some driveways on the property back into and intersection. HW has noted the lots of concern.
- 9. Landscaping Review
  - HW Landscape architects will review
    - Applicant does seem willing to address majority of concerns, using native plants, etc.
  - Ms. Bernardo to provide additional feedback to the Board
- 10. Physical Analysis Impact Review/Zoning
  - HW did not have significant concern in the initial response letter
  - Outstanding was the value of the homes – requires more review

Mr. Taylor indicated that the utilities for the development are underground, but thought the homes across the street where overhead. The applicant confirmed the utilities for the homes will be underground as well.

No additional comments from the public.

Ms. Burbine addressed the Applicant by saying she understands how costly this is, but the Board represents the Town of Scituate and wants to do what is in the best interest of the Town, but in the

end it is worth it for both parties. She said this will have an incredible impact on the town and she wants it to be the best that Toll Brothers has ever done. Mr. Bauer said that he hopes that the Board would say they have done everything that could be expected from the applicant for a project of this nature.

*Motion:*

Mr. Bornstein moved to accept the applicant's request to continue the public hearing for the Residential Cluster Special Permit for Seaside at Scituate by Toll MA Land III Limited Partnership, c/o Toll Brothers Inc. off of Hatherly and Tilden Roads until November 9, 2017 at 7:00 pm and continue the time for action to file a decision with the Town Clerk until December 22, 2017. Ms. Burbine seconded the motion; the vote was unanimously in favor.

Mr. Pritchard indicated the objective for next time is to tick off as many as the open items as possible and then go into some areas that have not been discussed.

- Construction phasing
- Construction plan
- Design Review Committee
- Landscaping

Mr. Bauer asked Mr. Pritchard to elaborate on what information was needed for construction phasing. Mr. Pritchard indicated construction sequencing and the kinds of impacts that will happen in the town. Mr. Pritchard said it sounds like remediation will be early in the phasing as well as clearing and earth moving. He said the Board wants to understand what the impact of doing that work will be on the Town and the abutters and how the applicant plans to manage it. He indicated that they want to know how the applicant will manage construction without flooding the neighbors. He said the stormwater system needs to function from the day the applicant starts; the Board does not want there to be any excess water going to the neighborhoods. He said that he wants to make sure the applicant has a plan and if the plan has to change the Board needs to know how the approach has changed. Mr. Pritchard also noted the concrete crushing on site and asked how that will be managed, i.e. dust, noise, work hours, etc.

**Public Hearing – Wireless Communication Antennas on Utility Poles (small cell attachments)**

**Pole SC01 – Utility Pole #236/1 adjacent to 26 Kenilworth Street – a private way**

**Pole SC02 – Utility Pole #245/4 adjacent to 32 Harvard Street – a private way**

**Pole SC04 – Utility Pole # EE C)-BRA adjacent to 14 Allen Place – a public way**

**Applicant: Cellco Partnership dba Verizon Wireless**

**Owner: National Grid**

**Documents**

- PDF of application dated 8.15.17 for 32 Harvard Street, 26 Kenilworth Street, 14 Allen Street.
- PDF of letters from Brandon F. Moss to Lorraine Devine dated 8.3.17 with regard to 32 Harvard Street, 26 Kenilworth Street, and 14 Allen Street.
- Email from Conservation Commission to Brad Washburn regarding 32 Harvard Street dated 9.15.17.
- PDF of letter from Janet Langmaid to the Board regarding 32 Harvard Street dated 10.3.17
- Email from Water Superintendent to Brad Washburn dated 10.2.17

- Email from Conservation Commission to Brad Washburn regarding 14 Allen Street dated 9.15.17.
- Transmittal letters for 32 Harvard Street and 14 Allen Street dated 9.6.17
- Transmittal letter for 26 Kenilworth Street dated 9.16.17

Attendees: Attorney Daniel Klasnick representing Verizon Wireless; Keenan Brennan representing Verizon Wireless

Mr. Klasnick indicated the applicant is proposing to install 3 small cell attachments in the town and has filed three separate applications for each location with a detailed analysis of the bylaw. He indicated Scituate has a provision in the Bylaw that pertains to these types of facilities.

Mr. Klasnick opined the applicant, Verizon Wireless, has proven the need for these facilities to address the coverage and capacity requirements in certain targeted areas in the Town of Scituate. He said the capacity for the demands on the networks has been taxed. Mr. Klasnick indicated that the applicant is trying to use the existing utility infrastructure in a manner that would have minimal impact to the community; people are already used to seeing a telephone pole.

Mr. Klasnick reviewed the equipment to be used:

- No ground equipment required
- Everything located on the utility pole
- Telephone poles will need to be replaced in order to be made taller
  - Poles need to be made taller due to shadowing, RF frequency
  - Work is done by the utility provider not Verizon Wireless
  - Verizon Wireless has a license master agreement with EverSource and National Grid for the deployment of the facilities
  - Verizon Wireless is provided non-discriminatory access to any utility pole easement
    - Exercise rights under Federal and State Pole Attachment Acts
- Single canister antenna, 12" diameter, approximately 38" inches tall, mounted to top of pole
- Remote radio heads, boxes on each side, 2 at each location
  - Necessary for signal
- Electric service meters on each pole per the utility companies
- Diplexer cable to connect antenna
- No ground work involved
- Bring in a bucket truck, takes a few hours to install

Mr. Klasnick indicated the applicant has provided a detailed radio frequency (RF) affidavit describing the existing facilities. He said currently Verizon Wireless has macro facilities, two located in Humarock area. He said Verizon is trying to achieve coverage and capacity from sites that are located in Marshfield, but as demand increases in those locations there are not only capacity issues, but there are also coverage issues. He said the location on Allen Place is a place in need of coverage. Mr. Klasnick indicated that this is a country wide process to deploy these small cell antennas; these are critical to Verizon Wireless providing service to their customers. He said two poles are owned by EverSource and one by National Grid and Verizon Wireless enters into a licensing agreement with them pursuant to the master agreement. He indicated that Verizon is not

responsible for the pole replacement that is done by the utility company, but Verizon to wait for the work to be done before they can do anything.

Ms. Joseph showed the Board images of the pole at 32 Harvard Place and also noted there was a letter from the homeowner. Mr. Klasnick opined that the second pole, the taller is the replacement and would be utilized by Verizon Wireless. Mr. Klasnick indicated it would be the utility company that would remove the pole, but he does not know the process by which they do it.

Mr. Taylor asked what the difference in height is between the shorter and taller poles. Mr. Klasnick indicated:

- 26 Kenilworth
  - 27' tall - old
  - 38' 6" tall - new
- 32 Harvard
  - 33' tall – old
  - 38' 6" tall –new
- 14 Allen
  - 29' tall – old
  - 34" tall – new

Mr. Klasnick indicated his understanding was the poles were old and undersized for a traditional utility pole and it is necessary to replace to have the additional height for RF requirements.

Ms. Lambert asked if the applicant can guarantee the pole is taken down in a timely manner. Mr. Klasnick said that is governed by state statute, Verizon Wireless does not control.

Mr. Pritchard asked for explanation of the radio frequency and coverage maps and how they demonstrate the need for additional coverage that does not already exist. Mr. Klasnick noted the sworn affidavit from the Radio Frequency Engineer and description of the needs for the facilities. He said the maps depict:

- Scituate East and Scituate South, Scituate small cell 04(14 Allen Place)
  - Sectors of service to particular area
  - Distance, density, capacity and use facilities in the area are being over taxed
  - Map shows two sites are unable to provide service
- Can't show amount of additional coverage
- Small Cell 02 and 01, locations at Kenilworth and Harvard Street
  - Both coverage and capacity needs
  - Service trying to provide are from sites in Marshfield
  - Due to distance, topography and overall demand cannot provide service

Mr. Pritchard opined it is very random to have these locations and will there be more coming. Mr. Klasnick opined there would be more to come as Verizon Wireless determines where there is the most critical need for the network. He said they try to design around locations and once these are in place they will further evaluate the need for additional locations. Mr. Pritchard indicated it is not clear to him from the documents provided where the coverage is needed. Mr. Klasnick said the areas are heavy use areas so capacity is high. They are areas down by the beach and in a marine area. Mr. Keenan Brennan representative from Verizon Wireless opined that a lot of this small cell activity is to handle seasonal activity or 911 that is going on in the summer in Scituate. He indicated

there are a number of these going in on the South Shore and Rhode Island all over New England and the common factor is seasonal activity like a beach or college campus, etc.

Mr. Pritchard said the Zoning Bylaw requires the applicant provide information for the need for the antenna, may include coverage maps or other information. He opined that the affidavit from the RF Engineer is the response to that requirement and the Board is having a difficult time understanding what the RF Engineer is saying. He asked what is the current performance and an expected performance. Mr. Klasnick said that the predictive modeling the Verizon Wireless has cannot show how much more service or coverage can be created. He said the map is to show the existing macro sites that they are trying to off load service from, each site can only handle a finite number of traffic and as more demand occurs the actual coverage area will continue to shrink. Mr. Pritchard asked if it is only three spots that are a problem in Scituate right now and balance is fine. Mr. Klasnick said he would not be surprised if additional small cells would be requested as Verizon Wireless continues to evaluate the network and demands. He indicated this is a way to use the existing infrastructure to provide better service. Mr. Washburn asked if there would be an update to the coverage maps. Mr. Pritchard opined that there must a snapshot of today and that is how locations are identified. Mr. Klasnick says the map shows what there currently is and the RF engineers do not feel that they can show where additional service would be. He said the map shows existing service it may not be providing adequate service, it might be a very weak signal. He said the network is constantly evolving.

Mr. Bornstein asked if Verizon leases or provides data for other wireless providers or will there be other companies like AT&T also requesting to put equipment on poles in the same areas. Mr. Klasnick said he cannot speak to other network designs, but Verizon Wireless operates on its specified frequencies and the facilities are intended to be used for Verizon Wireless licensed frequencies, other wireless service providers would not have use of these. Mr. Klasnick indicated that the Pole Attachment Acts extends to all telecommunications companies.

Mr. Taylor asked if there are any small cell attachments in Scituate currently and the answer was "no". Mr. Brennan said there are no Verizon attachments in Scituate and the closet is in Weymouth. Mr. Klasnick provided the Board with pictures of what an installed small cell attachment looks like; location was the town of Lexington.

Ms. Burbine commented that the harbor was outfitted with WiFi at a cost of \$75,000.00 to the Town of Scituate so the boats could get service. She said there are a lot of dropped calls in the harbor. She said when up on Allen Place and then come the down the hill to the harbor it is hard to get coverage. She opined it could be the same at Humarock that people have trouble calling from Humarock because of the topography; you are surrounded by hills, Marshfield Hills, Allen Place, Harbor Heights, and Otis Place up to Hazel that basically blocks any transmission from the tower that is at town hall. Mr. Brennan said he lives in Marshfield and is familiar with the terrain and on Saturday afternoon there are a lot of people. He opined that the need for the extra sites is being driven by the number of calls being made on a July afternoon. He said that Verizon Wireless will measure missed calls, blocked calls, and dropped calls in a particular area and will see the need to try and fill it. He said there is a need for more channels in the air and that is driving the small cells. Mr. Pritchard said he is just trying to understand how the applicant has demonstrated the capacity need or the need for improved service. He opined that the Board is being asked to take the affidavit of the Engineers to determine there is a capacity and coverage deficiency. Mr. Klasnick said the purpose is providing the Town of Scituate with the best service possible. He opined the sworn affidavit certifies the need for

the facility, describes in detail how it was determined the need for the facility and it what it will accomplish.

Ms. Joseph indicated that if the Board feels they need more information they should ask. She indicated the Town's preference is for smaller types service versus more cell towers and this is a way to provide the service and help camouflage the equipment. She said the new pole will be 44' with 6' buried under ground and then the antenna, total height would be 38'.

Mr. Bornstein indicated there was a radiation safety report submitted and asked to discuss the findings of the report.

Radiation Safety Report:

- Prepared by Dr. Donald Hayes
- FCC has exclusive jurisdiction over the determination of compliance of exposure levels
- Applicant certified compliance with both the FCC and Mass Department of Public Health standards
- Report shows exposure levels substantially below FCC guidelines
  - 6' and 16' height would be 1.83% of the total allowable
  - .093% for the location on Kenilworth Street
  - Extremely compliant and almost not measurable in terms of exposure levels

Public Comments:

Eugene and Margaret Hunt of 32 Harvard Street, are requesting that the Board deny the request for 32 Harvard Street. Mr. Hunt passed out a packet and asked the Board to reference the last page which was an image taken from his deck showing the height of the pole. Mr. Pritchard noted for the record the Harvard Street is a private way.

Mr. Hunt indicated that there is a fire station and with mention of need for 911 and public safety if the facility might be placed 100 yards inland to accommodate the need. He indicate the area as recently designated in the high-risk category for the Federal Flood Plan, #32 is an ocean front home and the pole is higher than 32 Harvard Street, 20' from the pole is a sea wall. Mr. Hunt said there is beach front property the pole is right behind the house that is on the water, the area does flood. He is asking the Board to deny the request; he finds it hard to understand why they would want to put it near the ocean, up in the area with the wind, and designated high-risk flood zone.

Mr. Hunt indicated the taller replacement pole has already been put in the ground. He said that last March a neighbor had asked someone working on the pole why it was so big and so tall and they were told because they were going to put a cell tower on the top. Mr. Hunt said that happened long before the applicant came to the Board for approval. Mr. Hunt opined that the replacement pole that was put in was not to replace the wires, but specifically put in for putting a cell tower on it and it was predetermined the Board would approve it. He said it was outside of the appropriate due process. He indicated the pole was put in the ground in March, part of the wires were hooked up to the new pole over the summer. He said the applicant has assumptively gone forward and put the pole in the ground and the workers identified they were going to put a cell tower on it long before they came to the Board for approval.



Mr. Bornstein asked who installed the other pole. Mr. Hunt said he did not know, but he is asking the Board to request from the applicant the truck number as well as the personal number of those who installed it. Mr. Hunt said his judgement is that it was predetermined as far back as March that a cell tower was going on the pole. Mr. Limbacher said as a coordinated effort it is probably owned by the electric company. He said they probably put the pole in, but they would know that Verizon wanted to put a cell tower on it.

Mr. Taylor asked his fellow members if there were any regulations that "National Grid" could put a pole at the height even if there was no cell tower. He clarified, does the Board have the jurisdiction to request the pole to be removed and the smaller one remain. Ms. Joseph indicated the rules for poles are governed by the FCC. She said if there is any doubt then the Board should continue the public hearing and bring the matter back to Town Counsel because the FCC has authority over certain poles. Mr. Hunt said there is an alternate point of view they can replace the pole, but not put a new pole in the ground. Ms. Joseph said Town Counsel is looking into that matter, if the Board has any question then the public hearing should continue.

*Motion:*

Ms. Burbine moved to continue the three public hearings for the small cell attachments adjacent to 14 Allen Place, 26 Kenilworth Street and 32 Harvard Street until October 26, 2017 at 7:00 pm and continue the time for action until November 30, 2017. Mr. Limbacher seconded the motion; the vote was unanimously in favor.

Mr. Pritchard said he would like to understand how Verizon made the determination for these three locations in the context of the overall service of Scituate.

- Evidence of the need
- How Verizon got to the determination of the need
- Bylaws designed to understand that
- Demonstrate the need for capacity and coverage
- How were these areas picked
- Charged with understanding the coverage need and maybe where there are other needs
- Are there alternate locations, why the particular locations
- Maybe the RF engineer needs to come to next meeting

Mr. Klasnick said they will work to clarify above issues for the next meeting.

Ms. Margaret Hunt of 28 Harvard Street said she has never had a problem with the cell phone.

**Accounting**

**Documents**

- PO # 1803899 (\$840.00), PO # 1803451 (\$20.49), PO # 1803467 (\$515.10), PO # 1803468 (\$357.84), PO # 1803440 (\$585.00)

Mr. Bornstein moved to approve the requisition of \$840.00 to Chessia Consulting Services, LLC for construction inspection services for 50 Country Way, for \$20.49 to WB Mason for office supplies, for \$515.10 to Amory Engineers, P.C. for construction inspections for 93-97 First Parish Road, for \$357.84 to Amory Engineers, P.C. for construction inspections for 13 Ford Place and for \$585.00 to

Merrill Corporation for engineering peer review for 529 – 531 Country Way common driveway. Ms. Burbine seconded the motion; the motion was unanimously in favor.

### **Liaison Reports**

*EDC - Ms. Burbine reported:*

- Ted Brovitz coming before Planning Board October 26, 2017
- Going forward with trying to figure out Drew project
- Looking at development with how it goes with overall vision plan
  - Looking at back parcel for potential 40R
  - Will have all the design
  - Ted working on framework for overall development of business district
    - Streetscape
    - Architectural standards
- Transfer station too big for what it does
  - Prime piece of real estate
- Scituate Concrete Pipe
  - Property elsewhere
- Goal to get things in place for Economic Development and Planning
  - Maintain control, rather than being reactive

### **Planning/Development Report**

- Certificates of Occupancy for the Brewery and 93-97 First Parish Road issued
- Riverway project under Planned Development District
  - All units have been build out
  - Still owe mixed use building with 2 affordable units
  - Been for sale for 3 years
  - One developer requested information
    - Not economical to build by someone other than the original developer, unless changed conditions
    - What does Board want to do with original developer
      - Listen to modification of affordable units
        - Would be semi affordable units
        - No units in subsidized housing
      - Draft a letter to the original developer to come to the Board
- Timeline for Zoning
  - Greenbush done for spring meeting
  - Ted Brovitz scheduled to come in
  - Public workshops need to be in January
  - Public Hearings in February
  - Advisory Committee likes to know final language
- Nothing new on Master Plan
  - Looking for consultant
  - Time to take initiative to come up with new plan

### **Old Business and New Business**

### **Documents**

- Email to the Board dated 10.6.17 from Karen Joseph with agenda for 10.12.17, Seaside at Scituate documents, Design Review Committee minutes dated 9.12.17.
- Email to the Board dated 10.6.17 from Karen Joseph with items for Seaside at Scituate
- Email to the Board dated 10.2.17 from Karen Joseph with items for Town Meeting Spring 2018.
- Email to the Board dated 10.10.17 from Karen Joseph with items for Seaside at Scituate
- Email to the Board dated 10.10.17 from Karen Joseph with items for Small Cell Attachments for 14 Allen Street and 26 Kenilworth Street
- Email to the Board dated 10.10.17 from Karen Joseph with items for Small Cell Attachments for 32 Harvard Street.
- Email to the Board dated 10.11.17 from Karen Joseph with items for Seaside at Scituate
- Email to the Board dated 10.12.17 from Karen Joseph with items for Small Cell Attachments.

These items were distributed to the Board electronically.

Mr. Limbacher moved to adjourn the meeting at 10:15 p.m. Ms. Burbine seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Shari Young  
Planning Board Administrative Assistant

Benjamin S. Bornstein, Clerk

Date Approved 4/12/18

