

SCITUATE PLANNING BOARD MINUTES October 27, 2022

Members Present: Patricia Lambert, Chair; Benjamin Bornstein, Vice Chair; Ann Burbine, Clerk; Stephen Pritchard, Rebecca Lewis and Bob MacLean, Alternate

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

Members absent:

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

Location of meeting: Select Board Hearing Room, Town Hall, 600 C J Cushing Highway, Scituate.

Chair Lambert called the meeting to order at 6:30 P.M. The meeting was being recorded for airing on local cable television and streaming live on Facebook with in-person and remote access available. Mr. Pritchard and Ms. Lewis were attending remotely.

Documents

- 10/27/22 Planning Board Amended Agenda

ACCEPTANCE OF AGENDA: Chair Lambert indicated there was a posted agenda. Ms. Burbine seconded the motion for the posted agenda and the vote was unanimously in favor.

A roll call vote was taken, and unanimously in favor.

Ms. Lambert – yes
Mr. Bornstein – yes
Ms. Burbine - yes
Ms. Lewis – yes
Mr. Pritchard – yes

**Continued - Public Hearing – Site Plan Administrative Review and Special Permit for A Multi-Family Building in the Village Center and Neighborhood District Greenbush Gateway District - Greenbush Gateway Business Subdistrict (VCN-GDG- GWB) and Stormwater Permit – 7 New Driftway
Assessor's Map/Block/Lot 53-05-37F
Owner: Joan Auciello, Tr of Shepard Way Realty Trust
Applicant: Drift-way LLC**

Documents

- PDF Draft Motion 7 New Driftway VCN 9
- Doc Draft Motion 7 New Driftway VCN 9
- Signed Agreement All Parties

Attendees: Frank Polak, Developer; Eric Schoumaker, Engineer; Walter Sullivan, Attorney

Ms. Lambert commented that the Planning Board has been meeting for a year on this project, 7 New Driftway, all engineering issues and all site issues have been resolved. Gateway to Scituate will have a new look. There were no additional comments from the Planning Board.
No public comment.

Motion:

Ms. Burbine moved to make the following Findings of Fact:

1. On August 31, 2021, the Applicant, Drift-Way LLC, filed an application for a Special Permit, Major Site Plan Review and Stormwater Permit for a residential multi-family project in the Village Center and Neighborhood District under Scituate Zoning Bylaws Section 580, 750 and 770. The Application included, but is not limited to, the following:
 - a. Application Forms including attachment A-F and Stormwater Permit form, locus deed, and Municipal Lien Certificate of July 12, 2021;
 - b. Filing Fees and Abutters' List;
 - c. Site Plan Development Plans, Proposed Residential Development, 7 New Driftway in Scituate, MA dated July 12, 2021 by McKenzie Engineering Group, Inc. consisting of 14 sheets;
 - d. Architectural rendering and Architectural Plans for a Residential Complex 7 New Driftway, Scituate, MA First, Second, Third & fourth Floor Plans and Elevations by Philippe Thibault Architect, LLC dated October 15, 2020 with revisions dated May 20, 2021 consisting of 4 sheets;
 - e. Drainage Calculations and Stormwater management Report for Proposed Residential Development located at 7 New Driftway, Scituate, MA 02066 dated July 12, 2021 by McKenzie Engineering Group.
2. The Property that is the subject of the Application is a 54,385 sq. ft. or 1.25 Ac parcel located off New Driftway, Scituate, Massachusetts. The Property is currently improved with a vacant medical office building, onsite bituminous concrete parking and associated utilities.
3. The Project is located in the new Village Center and Neighborhood (VCN) Zoning District, Greenbush-Driftway Gateway District (GDG) and the Gateway Business Subdistrict (GWB) – VCN-GDG-GWB. The site is also in the Water Resource Protection District Zone A and Zone II, Saltmarsh and Tideland Conservation District and Floodplain and Watershed Protection District.
4. The Zoning Bylaw in effect for this project is the bylaw approved by the Scituate Annual Town Meeting on 4/12/2021 and the Attorney General on 9/13/2021 and posted to the website in October 2021.
5. The Project proposed by the Applicant consists of nineteen (19) residential units in one Multi-family Buildings (MFB). There are five (5) 1-bedroom units and fourteen (14) 2-bedroom units for a total of 33 bedrooms. The building is a 3-story building with a habitable fourth floor attic. The building has a maximum building height of 39'-11 ½" from the average grade plane to the mean of the roof slope which is less than the maximum height of 40' as set forth in the Scituate Zoning Bylaw. A group home is proposed to be constructed off-site and will have five (5)

proposed bedrooms, each of which will count as an individual dwelling unit for purposes of the project and inclusion in the Subsidized Housing Inventory (“SHI”).

6. There are eleven (11) total exterior parking spaces provided. This includes one handicap parking space near the front door. There are sixteen (16) lower level garage parking spaces including one (1) handicap parking space. The project requires twenty-six (26) parking spaces and twenty-seven (27) will be provided. Parking is governed by Section 760.8 of the Scituate Zoning Bylaw for parking in Mixed-Use Districts (Table 2) and requires 1 space for a 1-bedroom unit and 1.5 spaces for a 2-bedroom unit in a multi-family building as the site is in the VCN District. Section 760.7 does not apply is proposed for residential use in the VCN.

Comment: last sentence to be reviewed.

7. The property at 7 New Driftway does not require a Pedestrian Frontage Overlay Zone per Section 580.2 of the zoning bylaw.
8. In the VCN-GDG-GWB a multi-family building is an allowed use per Section 420 and 580.3 of the Zoning Bylaws and an allowed building type per Section 750 of the Zoning Bylaw. Per Section 420, the allowed use is by Special Permit.
9. The base residential density in the VCN-GDG-GWB subdistrict per Section 580.4 of the zoning bylaw for a multi-family building is twelve (12) units per acre by right and twenty-four (24) units per acre by special permit. 14.96 units are allowed by right and 29.96 are allowed by special permit. Nineteen (19) units are proposed on-site requiring a density bonus of four (4) units. A special permit is required for nineteen (19) units if certain Public Realm Improvements are made by the Applicant that will provide benefits to residents and businesses in the project, the VCN district and surrounding area. The eligible public benefit improvements can include on-site or off-site infrastructure improvements, streetscape improvements, open space improvements, amenities not otherwise required under Section 752, public parking spaces or additional affordable units beyond the number required for the development. The Applicant proposes to provide a contribution of seventy thousand dollars (\$70,000.00) to be used toward repair, maintenance, reconstruction and associated engineering of the pier in the Driftway Conservation Park which needs repair and maintenance and is identified in the Town’s Open Space and Recreation Plan. The Applicant shall provide such funds to the Town prior to commencement of construction. The funds shall be placed in an account and the expenditure thereof shall be approved by the Town Administrator, Town Planner, Planning Board and Conservation Commission, all of whom must concur.
10. Section 580.4 also has minimum bulk standards for dwelling sizes. A two-bedroom unit is required to have 900 sq. ft. of usable floor area. A one-bedroom unit is required to have 600 sq. ft. of useable area. The one-bedroom units will have a usable area of 806 sq. ft. or 810 sq. ft. and the two-bedroom units will have a usable area of 1147 sq. ft. minimum. This requirement is met.
11. No Public Realm Standards are required for this development as no new streets are being created. The project proposes to eliminate two existing curb cuts from the site and replace them with sidewalks and curbing in the public right of way. A pedestrian crosswalk is required by zoning and is provided.
12. A group home is being proposed off-site to meet the number of affordable units required for the project. The group home will have five (5) bedrooms, each of which will count as an affordable unit for the project. The proposed group home will consist of one building with 5 bedrooms,

each of which will count as an affordable unit for the project on the Town's SHI. Construction of the five (5) units meets the requirement for projects with a density bonus to have 20% of the units affordable. The project will have 24 total units including the five (5) affordable units, and, therefore, meets the twenty percent (20%) criteria. The Applicant proposes to enter into a development agreement with CIL Realty of Massachusetts, Incorporated ("CIL") to purchase the property at 165/167 Stockbridge Road ("AHT Property") from the Town of Scituate Affordable Housing Trust ("AHT") and obtain permits necessary to construct the five (5) bedroom group home thereon. The Applicant shall donate the AHT Property to CIL and then obtain an appraisal for the property. The Applicant will donate the appraisal cost of the unimproved AHT Property to CIL who shall construct the five (5) bedroom group home at its expense. After construction, CIL shall lease the group home to Cardinal Cushing Centers, Inc., or other suitable party for a term of thirty (30) years. The five (5) affordable units shall be constructed so as to be included on the Town's SHI. The group home shall be constructed and have an occupancy permit prior to the issuance of an occupancy permit for the 7 New Driftway Development.

13. The Applicant met with the Design Review Committee ("DRC") on several occasions to discuss this project. The DRC recommended "the Planning Board move ahead with the Special Permit process" in a memorandum dated April 11, 2022. They indicated the "design meets the criteria set forth in Section 750 of the Zoning Bylaws, with the exception of the Building Setback/Height." Per the Bylaws, a building within 25 – 50 feet of the street shall be no more than thirty-five (35) feet in height. The overall height of the proposed building is just below 40'. "The DRC felt this was acceptable as the building's eave is at or below 35" and the overall design meets the other criteria set forth in the Zoning Bylaw." Design Standards under Section 580 and 750 of the Zoning Bylaw ~~must be met or waived.~~

Comment: Language change...have been met and waived under the below conditions.

14. A Multi-family Building (MFB) includes Lot Standards and Design Standards found in Section 750.6 including:
- A minimum lot size is not required;
 - Street frontage of 80' is required. There is 602' of frontage on New Driftway.
 - Lot depth is not required.
 - The front yard build-to-zone (setback) is 10' minimum and 30' maximum. 25.1 feet for the minimum is proposed and 29 feet for the maximum is proposed.
 - Minimum side yard is 15'. 263.6' is provided.
 - Minimum rear yard is 20'. 22.8' is provided.
 - Outdoor Amenity Space Coverage required is 20% of the lot. 20.9% is provided per the plans. ~~No square footage has been provided.~~ The permitted outdoor amenity space is per Section 752 of the bylaw is a Common Yard and Garden (PS) – Private Open Space with an outdoor permeable paver patio and walk.

Comment: A condition has been added that the square footage of amenity space is to be provided.

- The building height will conform to the height regulation set forth for an MFB at 39'-11-1/2" from the average grade plane to the average height between the eave and the ridge for any building with a pitched roof.
- The minimum street facing wall width is 60' and the maximum is 100'. Under Section 750.5 B. 2 d. Vertical modulation and articulation no street facing building elevation can be wider than 100' without a Special Permit. As 100' is provided, no special permit is required.
- A street facing entrance is required and provided.
- A maximum building footprint is not applicable.

15. A MFB has general design standards found in Section 750.5 including:

- More than one principal building is allowed on a lot if the building lot dimensional standards are met for each principal building individually. There is one building on the lot.
- The lot is a corner lot. The front façade of the building is parallel to the street right of way line.
- Multi-family buildings taller than 25' shall be required to be setback or stepped back from the street right-of way. The building is setback 29' from the front property line. For setbacks 0 – 25', a maximum height of 25' is required. For buildings 25 -50', a maximum height of 35' is allowed. According to the Applicant, the eave is at 35' in height. Two gables on the front elevation are 39'-11-1/2" in height which exceeds the height for the setback of 35'. The DRC felt this was acceptable as the building's eave was below the height and the overall design meets the criteria in the zoning bylaw.
- The scale of the building is visually compatible with the site and with its neighborhood,
- Building articulation standards have been met with buildings greater than 50' in width designed to read as a series of smaller buildings with varied articulation.
- No street facing building elevation is more than 100'.
- Horizontal modulation and articulation are required as the building is 3 stories and taller. The bottom two stories are visually integrated and the base is differentiated from above by a horizontal expression line and change in color. The central portions are visually integrated and differentiated from the bottom and top. The attic has a change in façade with a cornice and gable roof.
- Street facing building facades shall provide surface relief through dormers and door canopies. Door canopies are provided.
- Façade transparency is required for multi-family buildings. Windows shall be evenly spaced along the façade, windows shall be low reflectivity glass, the façade glazing shall fall between the height of 2' and 12'. Façade glazing requirements are only applicable to front facades facing a street right-of-way. The project meets the requirements with window spacing, façade glazing occurring between the first floor and 9'-4". Low reflectivity glass is proposed.
- The roof pitches (9:12) meet the criteria of 6:12 minimum and 12:12 maximum.

- Exterior treatments will be provided. Exterior treatments will be synthetic materials intended to provide the look and character of traditional building materials i.e. cedar shakes and clapboard. There will be corner boards, crown molding at windows and other trim work. The roof will be architectural asphalt shingles in a slate color with some metal roof segments at bays and entries. Gutters and downspouts will be present. The windows will be operable. Architectural elements are continued from the front to the side of the building. The proposed building has textures and patterns.

16. Development site standards include (Section 750.8):

- The development site consists of one building;
- The development site does not include any existing or proposed right –of-way;
- A multi-family building is a permitted building type in this district;
- A minimum of 50 feet of frontage on a public or publicly accessible street providing access to the development is provided;
- Development block standards are not applicable;
- Site Landscaping is provided. Plantings are arranged to not obscure the vision of traffic.
- Parking must be located a minimum of 5 feet behind the front façade. The project does not meet this requirement. A Waiver is being sought for this requirement. There is one handicap parking space in the front setback and the travel lane for the parking to the east of the building is in the front setback. A street screen shall be required where parking is visible from a public street or sidewalk. A landscape shrub screen is provided to screen parking from the street along with a 5' tall decorative fence.
- A driveway servicing the site is shown off New Driftway. It is proposed as 24 feet wide.
- New public utilities are proposed as underground.
- Trash storage areas outside are proposed in a dumpster with a fenced enclosure. The garage is located on the east side of the building. It will have ~~no~~ door and does not face the street.

Comment: The building does have a garage door, language to be revised.

- Bicycle racks have been provided at a rate of 10% of auto spaces. 4 bicycles can be accommodated.

17. Sustainable Site Design is required in the VCN District per Section 751 of the Zoning Bylaw. Stormwater management shall conform to best management practices as described in the Commonwealth of Massachusetts Stormwater Management Handbook. Predevelopment hydrology is maintained by reduction of pavement, infiltrating some stormwater and using pervious pavement. The post construction peak rate and volume of runoff is not exceeded for the 1, 2, 10, 25 and 100-year 24-hour rain events. Stormwater Best Management Practices are required. Treatment streams of deep sump hooded catch basins, subsurface infiltration and a rain garden are provided. Minimization of impervious surfaces is partially provided by providing only the required parking and reducing the amount of impervious surface on the site. A rain garden has been provided and level spreaders will help diffuse roof runoff. As this is a

redevelopment project and there is improvement of Best Management Practices in the Zone A, the Board has opined that the recharge is acceptable.

18. The total impervious area on the site is 16,190 sq. ft. which is a reduction of 12,382 sq. ft. from the existing conditions of 28,572 sq. ft. There is 24,121 sq. ft. of impervious area existing in the Zone A and 15,557 sq. ft. proposed. There is 21,182 sq. ft. of impervious area existing in overlapping Zone A's and Zone II's and 15,557 sq. ft. proposed. This is more than 20% of the lot and some artificial recharge is provided by a reduction of impervious area and through some infiltration from the level spreaders. This exceeds the requirements of the Zoning Bylaw for the Water Resource Protection District. No certification has been provided that the artificial recharge of precipitation will not degrade the groundwater quality for the Zone II and overlapping Zone A/Zone II areas. The proposed area of disturbance for re-grading is approximately 37,717 sq. ft. Greater than 90% TSS removal has been provided. As this is a redevelopment project, the roof top runoff must be treated to the maximum extent practicable. Two level spreaders provide some treatment of roof runoff. A level spreader also disperses flow from the rain garden area. Both level spreaders provide some recharge and help protect the existing bank from erosion as well as improving conditions from the existing condition by reducing impervious area promoting recharge. The Board opines the Water Resource Protection District requirements have been met to the extent practicable for this site.
19. A Landscape Plan shall be required for all submissions, except where waived by the Planning Board. To the greatest extent possible, native plants shall be maintained and no plants listed as Invasive or Prohibited by Massachusetts shall be used. Existing invasive plants shall be removed. A Landscape Plan has been provided. Native landscaping is reasonably proposed. Lawn area in the front yard is minimized and fertilizer use is discouraged. This requirement has been met.
20. Multi-family residential developments shall provide access from parking lots to a public sidewalk and the primary building as indicated in Section 760.8. F. 2. public ways. This is provided by a walkway connection from the main walk into the building to the existing sidewalk in the right of way of New Driftway.
21. Section 760 Parking – A waiver is requested per Section 750.8.D.1 to have parking in the front yard. One handicap space is proposed in the front yard and part of the travel way for the east parking is in the front setback. The handicap space is for residential units and meets the size requirements. The handicap parking space serves the public good of the development and causes no substantial adverse effects.
22. A traffic study was prepared by Gillion and Associates for the site. Vanasse and Associates, Inc. ("VAI") reviewed the study and provided comments which the Applicant addressed through submission of additional material. VAI has found their comments have been addressed with the conditions provided.
23. Scituate Zoning Bylaw, Section 770.6 sets forth the standard of review for approval of proposed site plans which are required for proposed developments which are of a size that may have significant impacts on neighborhoods. Multi-family buildings require a site plan reviewed by the Planning Board.
24. Section 770.6.A Site Plan Approval Standard A: Protection of adjoining premises against detrimental and offensive methods of utilizing the site.

Finding: The site is currently a vacant deteriorating medical office building and a multi-family building is allowed by special permit. A redevelopment will clean the site up. This standard is met.

25. Section 770.6.B Site Plan Approval Standard B: Traffic safety and ease of access at street and highway entrances and exits of driveways, taking account of traffic volume, grades, sight distances and distances between such driveway entrances, exits and the nearest existing street or highway intersections and times of peak traffic flow.

Finding: The site is located on New Driftway. The project will consist of a Multi-Family Building with nineteen units. The proposed development will have its own separate off-street parking meeting the requirements of Section 750.8. Access for the parking will be off New Driftway. The Applicant maintains there is capacity on New Driftway to handle the traffic that will be generated by changing the development from a medical office building to a multi-family building. The Applicant maintains there is adequate sight distance. Any back up leaving the site will be onsite, grades are minimal. There is a driveway across the street to an office/medical office facility. This standard is met.

26. Section 770.6.B Site Plan Approval Standard C: Safety and adequacy of driveway layout, pedestrian safety, off-street parking and loading sites, minimizing glare from headlights and light intrusion, sufficiency of access for service vehicles such as electricity, gas, fuel, telephone, laundry, rubbish removal, water, sewer, fire, police, ambulance or other routine or emergency vehicles.

Finding: The proposed development will have its own separate off-street parking meeting the requirements of Section 750.8. Access will be from New Driftway. The access off New Driftway is 24' wide. There is a walkway to reach the sidewalk on New Driftway. The Applicant indicates the site will have sufficient access for service and emergency vehicles. This standard is met.

27. Section 770.6.D Site Plan Approval Standard D: Adequacy of the methods of disposal for sewage, refuse and other wastes resulting from the uses permitted on the site, safety and adequacy of water supply and distribution, and of firefighting facilities on the site.

Finding: The project proposes to connect to the existing sewer service in New Driftway and connect to the water main located in New Driftway. They recommend individually metered units. The buildings will have fire sprinklers. There will be a new fire hydrant installed by the driveway. There is a dumpster for trash. This standard is met.

Comment: Need to address who "They" is; it is the Water Department

28. Section 770.6.E Site Plan Approval Standard E: Adequacy of surface and storm-water drainage and snow-melt runoff within and from the site, including but not limited to all walkways, driveways, buildings, parking and loading areas.

Finding: The proposed project consists of a subsurface recharge system and a bio-retention area for the proposed building and driveways. The site is located within the Water Resource Protection District and has been designed to comply with its requirements. Snow storage areas are not provided. The Board engaged Chessia Consulting Services to evaluate the adequacy and accuracy of McKenzie Engineering Group's stormwater report and data as well as the efficacy and adequacy of the design. Chessia Consulting Services submitted detailed written comments to the Planning Board. In response to these comments, the Applicant and

McKenzie provided responses, revised reports where requested and updated the site plans. After further review by Chessia Consulting Services, the Applicant was determined to have adequately addressed the comments and recommendations if the stormwater management system is built as designed. The Applicant has submitted a stormwater management plan and Operation and Maintenance Plan that ensures that the project will be managed appropriately before, *during* and after the completion of construction.

The Applicant has submitted an Erosion and Sediment Control Plan that has been reviewed by the Board's peer review consultant.

The review of the stormwater management system by the Planning Board's consulting engineer and their approval of this site plan review and special permit eliminates the requirement for a separate Stormwater Permit under the Stormwater General Bylaw and its regulations for any work that conforms to the plans. Bradley C. McKenzie, P.E. has certified that the drainage system will result in post-development runoff characteristics (including peak flow, total volume of runoff and water quality runoff) to be equal or less than pre-development runoff characteristics.

This standard is met.

29. Section 770.6.F Site Plan Approval Standard F: Adequacy of provisions made to protect against toxic or hazardous materials or oil discharge or loss resulting from corrosion, accidental damage, spillage or vandalism through measures such as spill control provisions in the vicinity of fuel delivery points, secured storage areas for toxic or hazardous materials or oil, and indoor storage provisions for corrodible or dissolvable materials.

Finding: The project has been designed to comply with requirements of the Water Resource Protection District. This standard is met.

30. Section 770.6.G Site Plan Approval Standard G: Minimizing the volume of cut and fill, the number of trees of 6" caliper or greater removed, the length of stone walls removed, soil erosion, and destruction of other natural features.

Finding: The proposed site is grading 29,000 sq. ft. and minor grade changes are proposed; therefore, there is minimal cut and fill. Some trees on the southwest corner of the building are proposed to be removed. This standard is met.

31. Section 770.6.H Site Plan Approval Standard H: Minimize obstruction of scenic views from publicly accessible locations.

Finding: The site does not consist of any scenic views from publicly accessible locations and, therefore; the Applicant complies with this requirement.

32. Section 770.6.I Site Plan Approval Standard I: Parking areas shall be adequately buffered and shaded using native vegetation. Parking lots with ten or more spaces shall be planted with at least one shade tree per ten spaces, of a caliper of at least 2 ½ inches dbh, with each tree providing shade to the parking area. Parking areas and visually degrading elements such as dumpsters and loading docks shall be designed to minimize visual intrusion from public ways and residentially owned or zoned areas. In addition, suitable screening of such areas by wood fences and dense, native evergreen hedges of five feet or more at time of planting shall be utilized. The use of chain link fences shall be avoided except in industrial areas. Outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be

arranged to minimize glare and light spillover to neighboring properties. No outdoor light shall be located more than twenty feet above the ground.

Finding: The project consists of one residential driveway with twenty-seven (27) proposed parking spaces – 16 in a lower level garage and 11 outdoors. Shade trees are proposed adjacent to the parking area. Exterior lighting shall be arranged to minimize glare and light spillover to adjacent properties thereby meeting the requirements of the Bylaw. This standard is met.

33. Section 770.6.J Site Plan Approval Standard J: Safe, functional, and convenient pedestrian, bicycle, and where practical transit access, and continuity of the pedestrian and bicycle network within the property and to nearby pedestrian and bicycle facilities and trip generators.

Finding: The surrounding area provides safe, functional and convenient pedestrian access. There is a sidewalk located on New Driftway and Country Way providing access to Greenbush and the train station. A 4-space bicycle rack is proposed. There is a walk connection in the site to the sidewalk. This standard is met.

Based on these findings, the Planning Board finds the Site Plan Review and Special Permit in the Village Center and Neighborhood District meets the requirements under the Village Center and Neighborhood District Section 580, 750, 760 and 770 as the Project will be in harmony with the general purposes of this bylaw and the requirements of MGL Ch. 40 A and it will not have a greater detrimental impact on the neighborhood than a conventional residential development plan and is designed with consideration for public health and safety.

Ms. Burbine seconded the motion for discussion.

There was discussion if a generator would be provided for the building; Mr. Polak indicated there will be a generator due to the elevator.

Mr. Pritchard seconded the motion as amended, a roll call vote was taken and was unanimously in favor.

Ms. Lambert – yes

Mr. Bornstein – yes

Ms. Burbine - yes

Ms. Lewis – yes

Mr. Pritchard – yes

Decision:

Based on the Findings of Fact and testimony provided at the public hearing, the Planning Board approves the Site Plan Review and Special Permit in the Village Center and Neighborhood District for 7 New Driftway (“Site”) with the following conditions:

General Requirements

1. All construction work shall be done in accordance with i) the plans submitted by McKenzie Engineering Group entitled “Site Development Plans Proposed Residential Development 7 New Driftway in Scituate, MA ”, consisting of 15 sheets dated July 12, 2021 with revisions through 9/9/22; ii) Landscape Plan 7 New Driftway Scituate, MA by Grady Consulting, L.L.C. dated May 6, 2022 with revisions through 9/15/22 consisting of one sheet; iii) Architectural Plans by Philippe Thibault Architect, LLC consisting of a colored rendering, A101 Floor Plans, A102

Floor Plans, A201 Elevations dated March 16, 2022 with revisions through August 31, 2022; iv) Drainage Calculations and Stormwater Management Report for Proposed Residential Development located at 7 New Driftway Assessor's Map 53, Block 5, Lot 37F Scituate, MA dated July 12, 2021 with revisions through September 9, 2022 v) Sewer System Review for 7 New Driftway Redevelopment, Scituate, MA by Weston & Sampson dated January 4, 2022; vi) Water Service Evaluation for 7 New Driftway Redevelopment, Scituate, MA dated January 4, 2022; vii) Volumes of fill within the Water Resource Protection District provided August 5, 2022 and any additional revisions needed to conform to the conditions contained therein (the "VCN Site Plan Review and Tandem Parking Special Permit "). Final Building elevations must be approved by the Town Planner prior to issuance of a building permit for conformance to submitted material. A copy of the approved plan and conditions must be kept on-site at all times during construction.

2. Where this Site Plan Review and Special Permit requires approval, permitting or licensing from any local, state or federal agency, such required approval, permitting or licensing is deemed a condition of the Town of Scituate Planning Board's (the "Planning Board" or the "Board") approval of this Site Plan Review and VCN Special Permit, including, but not limited to approval of work by the Board of Selectmen and Department of Public Works ("DPW") in all public rights of way including New Driftway. Construction shall meet all applicable federal, state and local laws and regulations including, but not limited to, those of the Scituate DPW, Fire Dept., Building Dept., Board of Health, Planning Board as well as the Massachusetts DEP and State Building Code. All necessary permits and approvals must be received prior to construction.

Comment: ZBA to be added

3. Construction shall meet all requirements of the Scituate Zoning Bylaw. All conditions of approval shall be inscribed on the Site Plan Review and VCN Special Permit Plans.
4. The Applicant shall mean the current Applicant and all its successors in interest. This site plan review and special permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under General Laws Chapter 40A, Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or, in the case of a special permit for construction, if construction has not begun by such date except for good cause. The Planning Board may extend said period, for good cause shown, upon receiving a written request from the Applicant prior to the expiration of said period, which request shall provide a detailed description of the good cause necessitating an extension. A public hearing may be required.
5. The total number of residential dwelling units on the Site shall not exceed nineteen (19). There will be five (5) one-bedroom units and fourteen (14) two-bedroom units. There will be five (5) affordable units constructed off-site at 165-167 Stockbridge Road in a group home where each bedroom will count as an affordable unit eligible for inclusion in the Town's SHI. The total number of bedrooms on the Site shall not exceed thirty-three (33). A bedroom shall be defined in accordance with Title V of the State Sanitary Code. Massachusetts Architectural Access Board ("MAAB") requirements must be met. All units constructed at the Site shall be under condominium ownership.
6. The Applicant shall obtain the plan endorsement from the Planning Board for the Site Plan Review and VCN Special Permit within 90 days of the expiration of the appeal period and this decision becoming final. All conditions shall be inscribed on the plans prior to endorsement.

7. The uses allowed on the Site shall be restricted to the uses allowed in the Zone A. Uses prohibited are in Section 520.6 of the Scituate Zoning Bylaw. Storage of fertilizers and pesticides is not allowed unless they are covered or contained.
8. No vehicle washing is to occur on the Site.
9. The units in the new building shall be numbered on the outside or on a map in the building lobby for identification, fire protection and emergency response purposes.
10. The Planning Board is not the Special Permit granting authority for the Salt Marsh and Tideland Conservation District or the Flood Plain and Watershed Protection District and this decision does not incorporate any approval or conditions related to those districts as the Zoning Board of Appeals is the permit granting authority for those districts.

Comment: These permits need to be obtained before construction.

Waivers

Comment: The Board approved the waivers at the October 13, 2022 Planning Board Meeting.

11. A waiver is requested from 750.5 A. 3. b. Building Setback and Stepback Standards to allow a 39'-11 1/2" high building within 25-50' of the front property line where 35' is allowed as it is the front face of the building that exceeds the requirement. The Board granted this waiver on 10/13/2022 by a unanimous vote.
12. A waiver is requested from Section 750.8.D. 1. for No parking to be placed in the front Build-To-Zone and shall be located a minimum of 5 feet behind the front façade of the primary building. One handicap accessible parking space is located in the front yard. The Board granted this waiver on 10/13/2022 by a unanimous vote.
13. A waiver is requested from Section 750.8. D.2. for a street screen to be required where private parking is visible from a public street or sidewalk including a 5-foot buffer area which includes a wall and/or landscaping that provides a sight impervious screen. There is not a sight impervious screen for the handicap parking in the front yard. The Board granted this waiver on 10/13/2022 by a unanimous vote subject to the condition that additional planting screening be provided between the handicap ramp and walk and the property line.
14. A waiver is requested from Section 751.3.E. Treatment of Front Yards for the front yard to include 35% impervious surfaces where 25% is allowed as there is a handicap accessible walkway and parking space in the front yard. The Board granted this waiver on 10/13/2022 by a unanimous vote.

Utilities, Parking, Traffic and Street Improvements

15. Maintenance and repair of the driveway and parking areas, stormwater management system, snow removal, lighting and landscaping shall be the responsibility of the Applicant until a Condominium Association is formed and responsibility for the same has been transferred to the condominium association.
16. All parking is limited to designated spaces as shown on the plan. Eleven (11) surfaces parking spaces including one handicap accessible space and sixteen (16) garage parking spaces including one handicap accessible space are provided.
17. Soil testing is required prior to construction of the patio and pervious pavers walkway. *The Town's Consulting engineer must be present and approve test results.*

18. No new underground irrigation systems shall be allowed to connect to the Town's water distribution system or in any manner use municipal water in accordance with the policy made effective by the Board of Selectmen on October 8, 2014 and reaffirmed by the Scituate Water Commissioners on May 26, 2015. All irrigation systems installed in accordance with the policy must be supplied by on-site sources or private water suppliers at the expense of the property owner.
19. The Applicant shall allow members and town officials 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. 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 the Special Permit Plan are satisfactory and conform to the Town specifications and the requirements of the Planning Board.
20. An independent inspector contracted or 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. The inspector shall be approved by the Town Planner and DPW and shall work under the direction of the Town Planner. The costs for these inspections shall be paid by the Owner. Written reports shall be submitted to the Applicant and the Planning Board in a timely manner stating results of any and all required inspections during construction unless more frequent reports are needed. 48 hours' *advance* notice minimum ~~advance notice~~ is required for all inspections. All stormwater recharge structures require inspection of the bottom of the excavation by the consulting engineer. Noise, dust and air quality control shall be in accordance with DEP regulations.
21. Construction of the proposed driveways, parking areas, proposed drainage system, proposed water system and proposed 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 driveways, parking areas, drainage system, water system and sewer system were constructed in accordance with the approved plans and that said systems are functioning in full accordance with the approved design.

The certification of the proposed driveways, parking areas and utilities shall be accompanied by as-built plans, signed and stamped by a professional land surveyor and the supervising registered professional engineer. Prior to issuance of an occupancy permit for the building, a registered professional engineer shall inspect the exterior of the building as necessary and certify to the Planning Board and Building Commissioner with his signature and stamp on an as-built plan, that the grading and stormwater management systems conforms to that shown on the Site Plan Review and VCN Special Permit Plans and are functioning in accordance with design requirements and any variation in grade is immaterial and does not materially alter the performance of the stormwater system. The site development As-Built including building structures, topography, roadways, water, sewer, gas, cable, fiber optic, electrical and storm drainage infrastructure will be submitted in AutoCAD Format 2013 or higher or ESRI Interchange Format registered to the Massachusetts State Plane (Mainland) Coordinates, North American Datum of 1983 compatible with the Town's system along with stamped and signed copies of said plans.

22. All materials for utility construction shall meet DPW construction standards.
23. A street opening permit shall be obtained for each individual utility connection.
24. A Curb Cut permit shall be obtained from DPW prior to the preconstruction conference.
25. The Applicant shall eliminate the existing driveway openings as necessary onto New Driftway and add sidewalk and vertical granite curb to match existing walk and curb to DPW standards. Saw cutting of the pavement and ADA accessible access is required.
26. A determination of adequacy of the existing water service/fire flow for the proposed use shall be provided by the Applicant to the DPW and Town Planner for their approval prior to scheduling the pre-construction conference. Installation of all water mains and appurtenances shall be performed according to the specifications of the DPW. Any required upgrades, modifications or connections shall be at the Applicant's expense. Prior to endorsement the plans must be revised as noted below:
 - Separate connections for fire and domestic service to the existing 12" water main are required. Splitting a single tap at the street/property line is not acceptable.
 - The water service(s) that serve the existing building should be identified on the plans. Notes should be added to abandon the existing water service (s) by excavating, closing, and capping the corporation stop. If existing tees are found, they should be removed and replaced with 12" ductile iron water main and solid sleeve couplings.
 - The proposed new 6" ductile iron water main service connection could be located at the abandoned service location and could potentially reuse the connections if they are found to be of the required size and in good condition. The new service connection could be made with a tee, gate valve, and solid sleeve couplings instead of proposed tapping sleeve and gate valve.
 - A new hydrant shall be located at the southeast corner of the entrance driveway. The exact location to be determined in the field by DPW Engineering. The existing hydrant at the site frontage shall be replaced with a new hydrant. All hydrants shall meet Town of Scituate standards.
 - The size of the proposed domestic and fire water services should be confirmed. Sizes for domestic and fire lines to be provided on a revised plan to Planning prior to application for a building permit.
 - Fire flow conditions shall be calculated per the Weston & Sampson report.
27. The Applicant shall obtain all necessary approvals for the use of Town sewer prior to scheduling the pre-construction conference and any construction commencing. Any required upgrades, modifications or connections shall be at the Applicant's expense. Installation of all sewer mains and appurtenances shall be performed according to the specifications of the DPW Sewer Division. Copies of all necessary approvals shall be furnished to the Town Planner by the Applicant. Prior to endorsement, the plans must be revised as noted below:
 - Based on the previous blockage/surcharge of the system and upon the existence of FOG at the Herring Brook Pump Station, it is required that the Applicant perform light cleaning and closed-circuit television (CCTV) inspection of the existing sewer lines between SMH STA 0+05W and STA 4+04W New Driftway. (see Record drawing C-8) to better define the current condition of these existing tributary pipes.

- The existing sewer service from New Driftway to the site shall be cleaned and a CCTV inspection performed as it is proposed to be used for the new building.
 - Sewer cleanout shall have a metal cover.
28. All replacement of, or connection to, Town sewer, drainage and the installation of water mains and appurtenances shall be performed according to the specifications of the Scituate DPW with an independent inspector contracted or employed by the Town to review the construction activity and assure compliance with the Town's rules and regulations. DPW personnel must be in attendance for any sewer, drainage and water infrastructure and appurtenance work in the Town rights of way and on the Project Site. In addition, the following must be addressed to the satisfaction of the Town Sewer Division prior to the commencement of construction:
- a. Confirmation that newly constructed manhole structures, if any, shall be vacuum tested paid for by the Applicant. The test must also be witnessed by the Sewer Division and/or by the Town's approved independent inspector.
 - b. Confirmation that newly constructed sewer lines must be pressure tested in accordance with Town test standards and the test must be witnessed by the Sewer Division and/or by the Town's approved independent inspector.
 - c. Sewer permits are required for the building. Any building with a sewer unit that hasn't received a betterment will owe a \$16,000 connection fee per sewer unit.
 - d. External cleanouts and viewports: Each building line shall have an external cleanout.
 - e. The privately constructed sewer infrastructure will be owned and shall be maintained at all times by the Applicant or *Condominium Association*. The sewer line from the property line in is owned by the property owner.
29. The building, parking, walkways and required signage shall meet all applicable requirements of the ADA, MAAB and Scituate Commission on Disabilities if applicable.
30. The Applicant shall ensure that signs, landscaping and other features located within the sight triangle areas of the Project site driveways and the intersection of New Driftway, are designed, installed and maintained so as not to impede lines of sight. (2.5 feet in height)
31. All signs and pavement markings to be installed shall conform to the applicable specifications of the Manual on Uniform Traffic Control Devices (MUTCD). All pavement markings in the public way shall be thermoplastic.
32. The Applicant shall ensure that the property manager promptly removes snow windrows located within the sight triangle areas of the Project Site driveway intersections with New Driftway exceed 3.5 feet in height or that would otherwise inhibit sight lines.
33. Snow storage areas have **not** been designated on-site. The Applicant shall provide snow storage areas on the site plan prior to endorsement. The Applicant shall ensure all maintenance personnel are informed of snow storage locations. When on-site capacity is exceeded, an off-site location shall be used in compliance with all federal, state and local laws. Deicing and sanding agents can only be stored on site if they are covered or contained.

Comment: language change that "allowable" agents can be stored on site if covered. Condition #33 and #37 should be worded to be in concert with each other. The Board suggested taking out the last

sentence. There was discussion about salt versus sand; the issue is the chemical that is being used, salt. There is no salt allowed in the Zone A; there are other deicing agents.

34. Trash management shall be internal to the building. A dumpster is proposed with a concrete dumpster pad. Trash removal shall occur as often as needed so debris is not placed outside the covered dumpster.
35. All electrical, telephone, cable and similar utilities shall be located underground.
36. Except for the Town-owned segments of the sewer and water line from the property line outward, all utilities including but not limited to the stormwater drainage shall be maintained by the Applicant or ~~Condominium Association~~ according to the Post-Development Best Management Practices Operation and Maintenance Plan & Long-Term Pollution Prevention Plan revised dated September 9, 2022 by McKenzie Engineering Group and which are attached to this decision. Town of Scituate contact information must be updated prior to endorsement to include The Town Planner. The Post-Development Best Management Practices Operation and Maintenance Plan & Long-Term Pollution Prevention Plan shall be provided to all property owners and all occupants of the property as conditions of their ownership agreements.
37. The Post-Development Best Management Practices Operation and Maintenance Plan & Long-Term Pollution Prevention Plan must be revised and resubmitted prior to endorsement to restrict salt for deicing and restrict pesticide and fertilizer use to none on site and to have no vehicle washing on site. Only Best management Practices used on-site should be listed in the plan. The person responsible for plan compliance must be listed by name as well as phone and email provided.

Comment: This condition needs to match condition #33.

38. If the drainage system is not performing as designed and conditioned or stormwater is observed going to abutting properties or to the street, the Stormwater Authority can request necessary mitigation to remedy the situation. This condition applies to all construction activities and survives the issuance of a Certificate of Completion.
39. No separate Stormwater Permit is required as long as the Site is built according to the approved plans and stormwater calculations.
40. The media in the rain garden must be replaced if the system is flooded by a coastal storm. Planning and Conservation Departments must be notified prior to replacement.
41. Electric vehicle charging stations shall be provided for two (2) vehicles for use by residents of the development.
42. A weather protected bicycle rack should be provided within the parking garage.
43. No gated entry is allowed now or in the future.

Affordability

44. All affordable units shall meet the requirements for inclusion in the Subsidized Housing Inventory through the state's Local Initiative Program ("LIP") or other similar state-approved program in effect at the time of application.
45. According to Section 754 of the Zoning Bylaw, for projects receiving a density bonus, not less than twenty percent (20%) of housing units constructed shall be Affordable Housing. Four (4) affordable units are required for 19 units receiving a density bonus. Technically, the affordable

units are part of the project total number of units, thus 23 units requires 4.6 units or 5 units of Affordable Housing as any fractional unit is deemed to constitute a whole unit. A group home is proposed off-site. The group home is proposed to have five (5) bedrooms where each bedroom shall count as an individual unit on the Town's SHI. The five (5) units of Affordable Housing required for the project will be met upon completion of the construction of 7 New Driftway and the Stockbridge Road project.

46. The affordable units shall be constructed simultaneously with the market rate units. No Certificate of Occupancy will be issued for 7 New Driftway unless and until 165-167 Stockbridge Road receives a Certificate of Occupancy. This condition cannot be waived without the grant of a special permit modification by the Planning Board after a duly noticed public hearing.
47. Prior to issuance of a building permit for 7 New Driftway and 165-167 Stockbridge Road, the following must be received by the Planning Board and Affordable Housing Trust;
 - a) A deed restriction for affordability in perpetuity;
 - b) A copy of the Development Agreement duly executed by all necessary parties;
 - c) A Purchase and Sales Agreement for the property at 165-167 Stockbridge Road duly executed by all necessary parties;
 - d) Architectural and engineering plans, site development permits and a schedule of development for 165-167 Stockbridge Road;
 - e) The Applicant must demonstrate to the satisfaction of the Monitoring Agent that the method by which affordable rents or prices are computed shall be consistent with state and federal guideline for affordability applicable to Scituate;
 - f) Proof, in a form acceptable to Town Counsel, that the Commonwealth will accept the proposed group home for inclusion on the Subsidized Housing Inventory as a LIP project or other similar state-approved program in effect at the time of application.
48. The Applicant shall prepare a LIP Local Action Units application or other similar state-approved program for the affordable units to be submitted to DHCD by the municipality (chief elected official) or the Applicant shall provide the Town Planner and Town Counsel with the paperwork provided to the Commonwealth to have the off-site affordable units incorporated in the SHI, prior to the issuance of a Certificate of Occupancy for 7 New Driftway. The Applicant shall also provide the Town Planner and Building Commissioner with proof that the group home has been fully licensed by all applicable state agencies prior to physical occupancy of the group home. All deed restrictions shall be in force in perpetuity. Compliance with the LIP program or other state-approved program must be presented to the Town Planner within 10 days of occupancy permit for 165-167 Stockbridge Road.

Erosion Control and Phasing

49. An Erosion Control Plan with preliminary sequence of construction has been provided. The plan shall be updated and provided to the Board prior to scheduling the pre-construction meeting and prior to commencement of construction. The plan shall comply with the Wetlands Protection Act and Order of Conditions for the project.
50. Stockpiles must be located outside of the 100-foot buffer zone of wetland resource areas and be protected with erosion control.

51. Stockpiles shall be located as shown on the plans and must be protected with erosion controls including but not limited to silt socks and temporary seeding.

Environmental Conditions: Noise and Dust

52. Site noise levels shall conform to the MassDEP's Division of Air Quality Control's Noise Policy. A baseline condition shall be taken and submitted to the Town Planner prior to the commencement of any construction activities.
53. The Applicant shall follow all regulations under the Massachusetts Department of Environmental Protection, 310 CMR 7.00: Air Pollution Control, 7.01 General Regulations to Prevent Air Pollution and 310 CMR 7.09 U Dust, Odor, Construction and Demolition. Per 310 CMR 7.09 U Dust, Odor, Construction, and Demolition water must be used to prevent excessive emission of particulate matter throughout the construction Project.
54. The Applicant shall not operate any concrete crushing machinery on the Project Site.
55. A dust control plan must be provided to the Planning Board and Board of Health for review and approval prior to the preconstruction conference.

Landscaping, Site Amenities, Density Bonus and Public Realm Improvement:

56. All changes to the proposed plans must be presented to the Town Planner for approval. The Town Planner or the Planning Board's inspector shall have the right to approve minor changes or deviations from the approved plans and/or any details needed for lighting, signage, paving materials, fencing or landscaping. All other changes shall be approved by the Planning Board. Material selection shall be provided to the Town Planner for review for compliance with approved plans prior to installation.
57. A separate sign permit shall be required from the Building Department for any free-standing signs, unless otherwise exempted under the Zoning Bylaws. Signs shall be fully located on the Applicant's property and shall not block sight lines for traffic entry/egress from the Site.
58. A density bonus of four (4) units has been requested not including the affordable units for the project. The Planning Board may approve this additional density by special permit if the Applicant provides benefits to the residents of the project and VCN District and surrounding area. Finding #9 indicates the Applicant has agreed to provide a contribution of seventy thousand dollars (\$70,000) to fund pier improvements/maintenance/repair/reconstruction and associated engineering in Driftway Conservation Park, located in the area of the Project and included in the Town's 2018 Open Space and Recreation Plan or any other project acceptable to the Planning Board ~~and Town Planner~~. This contribution is made in lieu of meeting physical requirements for a density bonus under Section 580.4 C of the zoning bylaw. The Applicant has agreed to stipulate in express written terms or conditions of the contribution that funds shall be placed in an interest-bearing account and that the interest on the funds may remain with and become part of the account and may be expended as part thereof by the Planning Board without further appropriation. Use of the funds for specific pier improvements/maintenance in the Driftway Conservation Park shall be approved by the Town Administrator, Town Planner, Planning Board and Conservation Commission. The Applicant shall provide such funds to the Town prior to commencement of construction.

Comment: The Town Planner can make recommendations, but the Board should be the approving authority.

59. The Applicant has agreed to contribute the sum of ten thousand dollars (\$10,000.00) to fund traffic and pedestrian improvements/studies in the Greenbush-Driftway area as approved by the Planning Board. The Applicant has agreed to stipulate in express written terms or conditions of the contribution that the funds shall be placed in an interest-bearing account and that the interest on the funds may remain with and become part of the account and may be expended as part thereof by the Planning Board without further appropriation. Use of the funds for specific improvements shall be approved by the Town Planner, Planning Board and Town Administrator. The Applicant shall provide such funds to the Town prior to the commencement of construction.
60. All proposed lawns and swale areas shall have a minimum of 6" of clean screened loam. A bill of laden shall be provided to the Town Planner during construction to show that the loam is clean.
61. If the parking garage is visible from New Driftway or Country Way, the Planning Board shall require plantings to hide the garage prior to a Certificate of Occupancy being issued.
62. Outdoor amenity areas must be shown by type, size in square feet and percentage of lot area and labelled on plan prior to endorsement.
63. A minimum of three seating amenities shall be provided for in the patio area available for year-round use.
64. Additional planting screening shall be provided between the handicap ramp and walk and the property line to be shown on the plan prior to endorsement.

Architecture/Design:

65. The building shall be constructed in accordance with the architectural elevations and plans submitted for the Project. The quality of materials, construction and colors shall not substantially deviate from those as shown on the elevations and discussed during the public hearing without the review and approval of the Planning Board.
66. The final building plans, stamped by a registered architect, shall be provided to the Planning Department prior to a building permit being issued for review for consistency with the elevations and renderings described in Condition 1. If the plans appear inconsistent, approval by the Planning Board will be required.
67. Low reflectivity glass is required.
68. Calculations for gutter capacity, downspout sizing and pipe sizing shall be submitted and approved by the consulting engineer prior to issuance of a building permit.
69. Revised architectural plans and site plans shall be submitted prior to endorsement showing the flood flow panels for the site. A revised Operation and Maintenance Plan shall also be submitted to incorporate clean-up from flooding.
70. A certification shall be provided to the Town Planner by the architect prior to a Certificate of Occupancy that the building as constructed is in substantial compliance with the approved plans.

Required Prior to Scheduling the Pre-Construction Conference

71. The Applicant shall provide draft condominium trust documents and a master deed review to include the proposed owners of the units in the residential buildings for Town Counsel review. Pursuant to G.L. Ch.183 A, the Condominium Master Deed and Condominium Trust document must be recorded prior to any use of the units that comprise the condominium. The Condominium Master Deed and trust documents, in their final form, shall include:

- a. A statement that the driveway, parking areas, drainage system, sewer, landscaping, amenity spaces and other common areas shall be owned by the Applicant or the future unit owner's organization (herein after the "Condominium Association") and shall be maintained by the Applicant and Condominium Association and shall not be the responsibility of the Town to maintain. The driveway, drainage system, landscaping, lighting, stormwater leaching system and other common areas shall be inspected, maintained and repaired by the Applicant or the Condominium Association. This shall also be stated in a note added to the plans prior to endorsement.
- b. A requirement that: i) maintenance of the drainage system, parking, driveways, and landscaping shall be in accordance with the Post-Development Best Management Practices Operation and Maintenance Plan & Long Term Pollution Prevention Plan approved by the Planning Board's consulting engineer; ii) provisions for snow removal and maintenance of safe conditions through the winter of all vehicle and pedestrian ways has been provided; and iii) a description of the required annual maintenance of the driveway, parking areas, landscaping, lighting and other common amenities.

Comment: Need to review this language.

- c. A table of the number and general location of parking spaces assigned to each unit.
 - d. The revised Post-Development Best Management Practice Operation and Maintenance Plan & Long-Term Pollution Prevention Plan shall be provided to the Planning Board as a stand-alone document.
 - e. A requirement that after the Applicant completes the construction of all the units and the units receive final occupancy certificates and the Condominium Association shall maintain an account always containing a reserve equal to one year's cost for maintenance. A contractor's estimate of this maintenance and proof of the available funds in the account shall be provided to the Planning Board with the agreement and annually on January 31 of every year.
 - f. A requirement that the Condominium Association notify the Planning Board of the name, address, phone number and email of the trustees within fourteen (14) calendar days of their election and to provide an annual report of the maintenance activities to the Planning Office by January 31 of every year.
 - g. A requirement that the Applicant notify contractors, builders and real estate agents that membership in a Condominium Association is required along with parking available to each unit are required to be disclosed to all prospective buyers. Copies of the Condominium Master Deed and Condominium Association documents shall be provided to prospective buyers and owners. Proof of owner receipt must be provided to the Planning Board within 72 hours of the sale.
72. Prior to scheduling the pre-construction conference, the Applicant shall provide to the Planning Board:
- a. Copies of the recorded site plan review and special permit and plans;
 - b. A check to cover cost of inspections by the Town's consulting engineer. These shall include, at a minimum, inspections of Subdivision Rules and Regulations Section 9.0, for the driveway, parking areas, walks, patios and stormwater management systems, water system,

municipal sewage connection and sanitary sewerage line, new curbing and erosion and dust control measures, as well as any specific requirements contained herein which may require review and/or inspections by the Town. The specific amount shall be provided by the Planning Dept. based on the consulting engineer's estimate, shall be subject to amendment from time to time and shall be supplemented by the Applicant as requested by the Planning Dept.;

- c. A construction schedule including approximate dates for installation of erosion control and other site protection/stabilization, construction of the building, and all applicable items in Subdivision Rules and Regulations Section 9.0; and
- d. A type and amount of security provided by the Applicant reasonably satisfactory to the Planning Board to cover the satisfactory completion of site and infrastructure features shown on the site plan including landscaping, parking, drainage, signs, lighting and related conditions imposed by the Board. The amount shall be based on the Applicant's contractor's estimate of costs of these items, reviewed by the Town's consulting engineer and shall be approved by the Planning Board prior to the preconstruction conference.

Comment: Only cash or a Bond is acceptable.

- e. Provide contact data for the Site Contractor, General Contractor and 24-hour number for responsible party in the event of an emergency.

Required Prior to the Start of Construction

- 73. Within two calendar weeks prior to the Applicant's notification to the Town Planner that it intends to commence any work on the project site, a pre-construction conference shall be held with the Applicant, their representatives, their engineer, the site contractor(s), the Town Planner, the Town Engineer and other DPW representatives as necessary, the Police Department, the Planning Board's consulting engineer and other representatives of the Town as the Board feels are necessary. A list of all contractor contacts, including names and telephone numbers, shall be provided to the Planning Board, DPW and Police Department. At least one telephone contact shall be available 24 hours per day in the event of an emergency.
- 74. The property lines of the subject Property shall be marked or flagged in the field under the direction of a surveyor and notification given to the Town Planner and Consulting Engineer a minimum of three business days prior to the start of construction. The property line shall be staked or pinned at all times during construction.
- 75. A stabilized construction entrance and silt fence/sock must be installed prior to any earth disturbing activities on site including but not limited to clearing and grubbing. Construction fencing shall be required as necessary to comply with federal, state and local laws.

Required During Construction

- 76. Construction work shall not begin prior to 7:00 AM weekdays and 8:00 AM on Saturday and shall cease no later than 7:00 PM or dusk whichever is earlier. No construction shall take place on Sundays or legal state or federal holidays.
- 77. The Board reserves the right to require the consulting engineer to visit the site weekly or as often as necessary during construction to observe and report on matters within the scope of the Planning Board's authority.

78. All earth moving/disturbance operations shall only occur while erosion and sedimentation control measures are in place and approved by the Town Planner or Town's Consulting Engineer. 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. It is the Applicant's affirmative responsibility to ensure the maintenance and management of all stormwater control measures at all times during construction to ensure there are no increases in stormwater flow velocity or volume to abutting properties at any time.
79. Construction activities on the site shall conform to the Town of Scituate General Bylaws.
80. No sediment (including silty water) shall be allowed to leave the site during construction.
81. No parking or unloading on New Driftway Way shall be permitted during construction unless approved in advance and controlled at the same time by the Police Department. Construction vehicles shall use the designated construction access.
82. The Applicant shall notify the Scituate Police Department 48 hours in advance of any significant equipment and construction material arrival to the site which may cause a safety hazard or material disruption of the public way such that a police detail is necessary to ensure safe passage. Any Police detail required is at the expense of the Applicant and is required when the Police Department determines it is necessary.
83. The Applicant shall not allow any large construction equipment or trucks to stage or idle on public roads and shall not allow such equipment or trucks to idle onsite prior to 7:00 AM. Police details may be required for construction access or work within the layout of New Driftway.
84. The Applicant shall provide the Town with the route(s) construction traffic will use so that if a safety hazard or material disruption of the public way impedes safe passage, a police detail would be obtained by the Applicant at its expense.
85. Construction activities shall be conducted in a workman like manner at all times. Blowing dust or debris shall be controlled by the Applicant through stabilization, wetting down or other proper storage and disposal methods.
86. No use of hydrants on-site or on adjacent roads off-site is allowed for construction use. A hydrant may be available at the water treatment plant for construction use during non-water ban times.
87. In an effort to reduce noise levels, the Applicant shall keep all equipment that emanates sounds from the structures or site in proper working order through regular maintenance.
88. Blasting, if necessary, shall be conducted according to all necessary permits and meet all of the requirements of the Scituate Fire Department.

Required Prior to Issuance of Occupancy Permits

89. No Certificate of Occupancy shall be issued until the Planning Board and Building Commissioner are satisfied that the driveway, parking areas, and installation of necessary utilities is in full compliance with the approved plans and the site plan review and special permit.
90. Prior to application for a Certificate of Occupancy, a copy of the contract for inspections and maintenance of the Stormwater System per the Operation and Maintenance Plan shall be provided to the Planning Office.
91. ~~Permanent signs indicating the prohibited uses and requirements for handling of hazardous materials shall be installed in each commercial unit in a prominent location prior to obtaining a~~

~~Certificate of Occupancy. Yearly verification of signage shall be submitted. Signage shall be submitted for review and approval by the Town Planner.~~

Comment: condition is to be removed, it does not apply.

92. Following review and approval by Town Counsel and the Planning Board, the Condominium Master Deed and Condominium Association Documents shall be recorded at the Registry of Deeds prior to the Building Department's issuance of any Occupancy Permits. Proof of Recording must be provided to the Planning Board.

93. Prior to applying for an Occupancy Permit, the Applicant shall provide:

- a. A copy of an executed regulatory agreement between the developer, municipality and DHCD to insure long-term affordability.
- b. The proposed sale price of the affordable units and estimated condominium fee;
- c. A draft deed restriction to restrict the subsequent price of the condominium to 80% of the area mean income according to the Department of Housing and Community Development (DHCD) in perpetuity. The draft deed restriction shall be approved by town Counsel and proof of recording provided to the Planning Board prior to the issuance of the Occupancy Permit for an affordable unit;
- d. ~~A plan showing the location of the affordable unit for the Building and Planning Departments;~~
- e. The name and contact information for agencies, companies or individuals who will conduct marketing, hold the lottery and perform the monitoring;
- f. A draft affirmative marketing plan meeting the guidelines for approval of DHCD. The marketing Plan must affirmatively provide outreach to area minority communities to notify them of the availability of the unit and must demonstrate the need for local preference as well as insure there will be no discriminatory impacts as a result of using local preference criteria. If the plan does not meet DHCD requirements for inclusion of the unit on the Subsidized Housing Inventory, revisions will be required prior to an Occupancy permit.
- g. Any changes to the affordability documents must be approved by the Town Planner.

Comment: Ms. Joseph and Mr. Sullivan to rework the wording of this condition. The development agreement should be referenced and the conditions should be coordinated with it.

Administration

94. All time periods referenced in this document for completion of conditions shall be tolled in case any appeals are taken.

95. This Site Plan Review and Special Permit shall run with the land and shall be void if it is not recorded at the Registry of Deeds within 120 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.

96. The Planning Board may in its discretion waive or modify conditions of this Special Permit at a duly called meeting of the Board if the Board determines that such waiver or modification is insignificant and does not materially adversely affect the purpose of this special permit decision.

97. 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 M.G.L. Chapter 40A, Section 9.
98. All plan sheets of the Site Plan Review and VCN Special Permit shall be recorded at the Registry of Deeds.
99. All construction work shall be done in accordance with the plans. Failure to comply with any condition of this permit shall cause it to be deemed invalid.
100. Any condition contained herein that varies from the plan supersedes the plan where different.

Ms. Burbine seconded the motion for discussion.

Ms. Burbine expressed concern over the affordable units being for 30 yrs. versus in perpetuity; could the units suddenly become something else. Ms. Joseph said the Board is requiring the deed restriction be in perpetuity; currently there is a lease agreement for 30yrs. once that is up it will have to be renegotiated. The deed restriction will be for affordable units in perpetuity.

There was discussion from Mr. Sullivan asking that the Town should have to provide 24 hrs. notice before visiting the site. The Board did not agree to that; the Town needs to have the ability to come to the site at any time.

Ms. Burbine seconded the motion as amended, a roll call vote was taken; the vote was unanimously in favor.

Ms. Lambert – yes

Mr. Bornstein – yes

Ms. Burbine - yes

Ms. Lewis – yes

Mr. Pritchard – yes

Ms. Burbine moved to close the public hearing for 7 New Driftway.

A roll call vote was taken, and unanimously in favor.

Ms. Lambert – yes

Mr. Bornstein – yes

Ms. Burbine - yes

Ms. Lewis – yes

Mr. Pritchard – yes

Ms. Joseph indicated the Board has until November 30th to file the decision with the Town Clerk; all taxes need to be paid.

Discussion/Vote – Surety Reduction – Seaside at Scituate

Documents

- PDF 2022.10.18 SAS Comment on TBI Reduction Request
- PDF 2022-09-28 Seaside at Scituate Toll Brothers Bond Reduction
- PDF 221018 Seaside Bond Reduction Review
- PDF 221018-Bont Reduction Review
- PDF Schedule 101-2022

Attendees: Bryan Weiner, Toll Brothers

Mr. Weiner indicated a request for a Bond reduction was submitted, the last reduction was about 2 years ago. He said they have received a recommendation from Horsley Witten and they are willing to accept that recommendation. He said they are pushing as hard as they can to get to the end of the project.

Ms. Lambert said her recommendation is that surety not be reduced; this is a long project, there have been lots of problems and they have been fined a lot. She said every time it rains Ms. Joseph has to go to the site; all kinds of citations have been issued. She said the only control the Board has over the site is the surety. Ms. Lambert opined that given the circumstances of the construction site she is not looking to consider a surety reduction.

Ms. Burbine said she walked the site recently and is extremely disappointed; the site is not great, where is the pride in this operation. She said the walking trails are a hazard, there are two by fours that are a tripping hazard. She said they have been fined 32 times and she does not understand that; she cannot give a reduction in surety. She opined it is painful the way this has gone.

Mr. Weiner said he understands her perspective, but thinks the site looks different than what is being described; they are working hard to get to the end.

Ms. Lewis said she also walked the site and opined there are a lot of problems. She said they have done a lot of work, but not only are the walking trails an issue the sidewalks are problematic. She asked if there is a plan to fix them.

Mr. Weiner said all the sidewalks will be built to the plan; some things are temporary, but there will be a final push to get everything exactly where it needs to be. He said he understands, this is an interim spot of construction, they are trying to wrap up and they have made a lot of great progress.

Ms. Lambert said while there has been progress, they have been fined 32 times; it is unacceptable.

Mr. Bornstein said to put an amount of money to be returned or not is beyond him, but he does agree with other members of the Board that surety is some of the only leverage to ensure the project is completed to its full potential. He said since he was involved with this project from its inception and the permitting process regardless of the estimates he feels there is a long way to go with many of the items and what is in the field right now pales in comparison to what he was sold when the project was brought before the Board; beautiful renderings of the landscape buffer that now looks like it is in ill health and dying and does not look like the landscape plan that was produced for the imagery. He said the Belgium Block curbing was supposed to be so much more beautiful than granite block curbing and it is a mess; he questions the level of workmanship it is being completed with. He opined the Town and the Board needs to have some leverage and he cannot put a dollar amount on that; he would tend to be more conservative than with what the Toll Brothers Engineer and the Peer Review Engineer have come up with.

Mr. Weiner said they are just following the process; their Consultants have expertise and they have made the recommendations. He said he doesn't know what they could do differently.

Mr. Pritchard agreed with the comments that have already been made. He noted the requested reduction was about \$300K less than the Town's Consultant estimate, he opined they are not close enough to make any kind of reduction in the Bond at this point. It would be prudent on the Board's part to not reduce the Bond.

Mr. MacLean thought the Bond should be reduced, but not as much as Toll Brothers is requesting. He suggested starting with the Horsley Witten estimate and moving up from there. He suggested maybe a reduction of \$500,000 out of the \$2 Million.

Ms. Joseph said if Toll Brothers were to walk away and not finish the project, it would have to be completed under prevailing wage. She asked DPW how much more prevailing wage adds to a project; 2x-3x more could be added to a project. She said that was not in the Horsley Witten analysis. She does not believe Toll Brothers is going to walk away, but it has happened to the Town in the past.

Ms. Lambert made a motion that the Board does not reduce the surety and it is to remain as it stands now.

Mr. MacLean asked if a goal can be set of the Board wants it to look like in a certain time frame. Ms. Lambert said that has been done in the past and it has not worked. She acknowledged that work has been done, but the Board is unhappy with the results of the work. She said she has been out there for 6-7 site visits and Ms. Joseph goes out there frequently, i.e. every time it rains. She said the amount of waste and time, although not the Board's prevue; it is the Board's job to protect the Town. She opined if the surety is not kept in place it is going to make them work harder; the original drawings were beautiful. Discussion continued about why the Town would be worried about them completing the job; Ms. Lambert said they just don't listen to the concerns. They were shut down and that was the only way to get them to address the issues and that is problematic.

Ms. Lambert took a straw vote of the Board of those NOT in favor of reducing the Bond.

Ms. Lambert not in favor of reducing the Bond

Ms. Burbine not in favor of reducing the Bond

Mr. Bornstein not in favor of reducing the Bond, but would entertain the Board being invited for another site visit when the Developer feels they are proud to show the Board what is worthy of the reduction; this can be on the agenda again and the Developer can keep requesting a reduction. Right now, people are disappointed and unhappy; show the Board something to be happy about. Right now, this is the only tool in the toolbox.

Mr. Weiner said he wants to make sure the target is clear; it has been 2 years and a lot of work has been done in 2 years. Discussion continued that every unit has been sold and unfortunately a lot of people are living in a construction zone and the area around Ermine it is very difficult. Ms. Burbine suggested that maybe the Developer should come back at Christmas time for surety review.

Ms. Joseph noted the overall schedule that has been provided indicates the Developer wants to be done with the units by the end of the year; that does not include some of the major site stuff, i.e. the nature trail, the walkways, the basins will not be done until next year. She did not think the Board should entertain the Developer coming back at Christmas because all they will be focused on is Certificates of Occupancy (CO). She said CO's and Surety is the only way to get the work done; CO's will be done by the end of the year and site work will be done next year during the applicable time of year to do the site work.

Mr. Pritchard said there is along way to go and there would be significant costs if the Town had to take it on, the history of performance is not on the Developers side. He suggested coming back in 6-8 months and see what happens then.

Ms. Lewis agreed with Mr. Pritchard. She said for 2 years the property has been being developed, units are still being built; there is not any thought of surety being given back. She opined maybe six months would be a good time to come back.

Ms. Lambert said based on the straw vote the surety is not going to be reduced.

Mr. Weiner said he understands and the submission of it is based on certain things, certain criteria.

Ms. Joseph said she does not anticipate the Developer should come back before the end of the planting season next year; there is a lot of planting work that needs to be done, basin work, grass work, nature trail, sidewalks that need to be fixed and much cannot be done it the winter. She said the schedule she has been provided says that work will happen in Spring/Summer 2023. She opined the Developer should not come back before the end of the summer.

Mr. Pritchard said they have had years to get things right and the fact that they have been fined 30+ times does not give anyone a warm fuzzy that they will comply with the requirements.

Mr. Weiner said they will push the request for surety reduction to the end of the Summer next year.

Ms. Lewis left the meeting at this time.

Minutes

Documents

- Meeting Minutes 10.13.22

Ms. Burbine moved to approve the meeting minutes for October 13, 2022.

Mr. Bornstein seconded the motion; a roll call vote was taken, and unanimously in favor.

Ms. Lambert – yes

Mr. Bornstein – yes

Ms. Burbine - yes

Mr. Pritchard – yes

Accounting

Documents

PO #2313639 (\$500.00), PO #2313540 (\$2,690.75), PO #2313460 (\$332.80), PO #2313462 (\$522.32), PO #2313785 (\$2,025.00), PO #2313786 (\$1,425.00)

Ms. Burbine moved to approve the requisition of \$500.00 to Robert Proctor for unexpended peer review funds, for \$2,690.75 to Horsley Witten Group for peer review at Seaside at Scituate, for \$174.20 to Gatehouse Media for legal ad for 33 New Driftway, for \$158.60 to Gatehouse Media for

legal ad for 61 New Driftway, for \$522.32 to Vanasse & Associates for peer review of 7 New Driftway – Traffic, for \$2,025.00 to Merrill Corp for peer review of Curtis Estates, for \$1,425.00 to Merrill Corp for peer review at 6 MacDonald Terrace. Mr. Bornstein seconded the motion; a roll call vote was taken, and unanimously in favor.

Ms. Lambert – yes
Mr. Bornstein – yes
Ms. Burbine - yes
Mr. Pritchard – yes

Liaison Reports:

CPC – reported by Ms. Burbine:

- Meeting again on November 11th
- 12 applications under review
 - Ms. Burbine provided of projects to the Board members
 - Pickle Ball Court requesting \$250K
 - Wheeler Park Window requesting \$500K
 - Pier 44 request discussed with Ms. Connolly, Select Board Member Liaison
 - Select Board has put in a place holder for the group investigating use for Pier 44
 - Design group has been engaged to provide preliminary plans by the end of the year
 - 3 rendering of what is possible on site
 - Asking CPC to provide funding for Phases 2 and 3, Design, Permitting and preparation of construction documents
 - Plan to go to Town Meeting in April for approval of a design and get bids going for construction
 - Similar path as the Library went through
 - Phasing the project and letting the Town decide each phase along the way

Ms. Connolly said the property has been talked about for many years; it is not needed for a Senior Center, we don't need another building to take care of in town, it is not a historic structure and the general consensus from surveys done is that some sort of park is most appropriate, there are major constraints in terms of the site. A very reputable design firm has been hired that knows a lot about resiliency, waterfront, etc. She said there is no monetary value attached to what is being requested from CPC yet, but hoping to get to the point where there are three designs for people to react to and then costs can be assigned/discussed and more known about what the site can actually support.

Ms. Burbine asked about the Cole Parkway Gazebo; if any thought has been given to that. Ms. Connolly said the Select Board (SB) has also appointed a Cole Parkway Committee and she is the SB Liaison for that project as well; someone to keep an eye on the entire waterfront. Both Pier 44 and Cole Parkway have a variety of members, i.e. Waterways, Historic Commission, etc. to come up with some plans for Cole Parkway. She said that part of the property next to Pier 44 is owned by the State, the boat ramp and there are plans to work there as well. She hopes that all of these can be thought of so they will work together. She noted that the lantern room from the lighthouse will

likely not be able to be used and will likely need to be reconstructed, but would there be somewhere on the Pier 44 site for it; the same with the Gazebo at this point she opined money should not be spent on the Gazebo if it is unknown what is happening with Cole Parkway and perhaps it could be replaced somehow at the Pier 44 location. She said “we” are trying to put all these things together.

Traffic Rules and Regulations Committee – reported by Ms. Burbine:

- Meeting on November 1st

ZBA – reported by Ms. Lambert:

- Planning Board was overruled on 5 Williamsburg Lane
 - Argument was the property has been developed and approved as a lot in the 60’s
 - There are now new rules and restrictions and the ZBA didn’t adhere to them
 - Very rare variance
 - Variance is for setback to a tributary
 - Vote was unanimous
 - ZBA opined 520.6 was not specific enough

Planning and Development – reported by Ms. Joseph:

- A couple of Accessory Dwellings have come in
- Next meeting likely to have 14-16 Old Country Way for endorsement and surety
 - Property now owned by Don McGill
 - Intends to have foundations in before winter
- Stormwater Permit for the field coming next week
- Lots of Special Permits coming up in next few meetings need everyone in attendance

Ms. Lambert noted she will be going to the ZBA November 1st meeting regarding the 40B on Old Oaken Bucket.

There was discussion on the proposed 40B on 3A; no new developments and the time period has not yet lapsed. If a project is going to be done a new project eligibility letter would likely have to be done because they cannot get the amount of septic capacity needed.

Ms. Joseph indicated there is a revised plan in the Cottages at Old Oaken Bucket, 40B, to have 24 units versus 34 units, but no engineering has been done for the 24 units. It is unknown what the ZBA will comment on.

Ms. Joseph reminded the Board of the upcoming meetings, November 10th, November 17th, December 8th and December 15th and there are special permits at all those meetings.

Documents

- Email to the Board from Shari Young dated 10.21.22 with the agenda for 10.27.22 and DRAFT meeting minutes from 10.13.22
- Email to the Board from Karen Joseph with meeting materials for 7 New Driftway and Seaside at Scituate

These items were distributed to the Board electronically.

Ms. Burbine moved to adjourn the meeting at 8:41 p.m. Ms. Lambert seconded the motion; a roll call vote was taken, and unanimously in favor.

Ms. Lambert – yes

Mr. Bornstein – yes

Ms. Burbine - yes

Mr. Pritchard – yes

Respectfully submitted,

Shari Young

Planning Board Administrative Assistant

Ann Burbine, Clerk

Date Approved: November 10, 2022