

## **SCITUATE PLANNING BOARD    MINUTES    March 26, 2015**

Members Present: William Limbacher, Chairman; Stephen Pritchard, Vice Chairman; Richard Taylor, Clerk; Robert Vogel, Robert Greene and Ann Burbine, Alternate member.

Members Absent: None.

Others Present: Ms. Laura Harbottle, Town Planner.

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.

Chairman Limbacher called the meeting to order at 7:30 P.M. The meeting was being recorded for airing on local cable television. Mr. Vogel arrived at 7:35 P.M. prior to any vote except the agenda.

### **Documents**

- 3/26/15 Planning Board Agenda

ACCEPTANCE OF AGENDA: Mr. Taylor moved to accept the agenda. Mr. Pritchard seconded the motion and the vote was unanimous in favor.

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### **Public Hearing – Site Plan Administrative Review – Scituate Town Library – 85 Branch Street Assessor's Map/Block/Lot 38-1-16A Applicant/Owner: Town Library/Town of Scituate**

### **Documents**

- Application for Site Plan Administrative Review with supporting plans received 3/12/15
- Transmittal to Town Departments dated March 4 and March 17, 2015
- Meeting Minutes of the Design Review Committee from 3/10/15
- 4 lighting specification pdf's
- Town Library Planning Staff report
- Email from Laura Harbottle to Library on comments from Deputy Fire Chief Elliott
- Email from Owen Wartella of Nitsch Engineering on hydrant and water line and email back from Nitsch Engineering with new hydrant and water line
- Email from Deputy Fire Chief Elliott approving new hydrant and line
- Comment from DPW dated March 25, 2015
- Revised drawings from Oudens Ello dated March 26, 2015

Conrad Ello and Ashley Gonzalez from Oudens Ello Architects were present along with Owen Wartella of Nitsch Engineering, Joe Sullivan from Daedalus and Jessi Finnie from the Library. John Roman and Hal Stokes of the Design Review Committee were also present. Mr. Ello indicated that the application was submitted March 12 and they have met with the Design Review Committee and tried to address their comments as well as several key Planning Office comments. He indicated that the project is a renovation of the existing 25,000 sq. ft. library with an addition for a new library totaling just over 32,000 sq. ft. He said there would be a major transformation in the interior as both floors would be fully utilized. He said that the project goes to bid at the end of May for construction in July. He said the new library will be ready in September 2016.

Mr. Ello said that there is a significant change to the parking. He said that 55 parking spaces currently exist and they are proposing 106 spaces. He indicated that the state library regulations

require 1 space per 400 sq. ft. of building which results in 80 spaces. He said there are 8 handicap and 18 staff spaces which total the 106. He said the parking layout is more efficient so it does not take up considerably more space. Mr. Wartella indicated that there will be a looped water line to Branch Street and a bioretention basin to treat stormwater prior to its release to Branch Street. He said that the amount of impervious surface is increased; but the bioretention basin reduces rates and volume of runoff for the 2, 10, 25 and 100 year storms. He said the drain pipe is now shown as RCP per the request of the DPW.

Ms. Harbottle said that a few remaining items still need to be shown on the drawings, but that they can be conditioned. Mr. Wartella said that they will seek some information from DPW. He indicated that there would be all new utilities including gas in response to a question from Mr. Pritchard. Mr. Pritchard also inquired about multimodal accommodations on site. Mr. Ello said that the ingress and egress are the same and they are tying into existing walks and there will be new bike racks and a book drop. Mr. Ello said that traffic will be two way and they believe traffic will loop around the parking lot.

Site Lighting was discussed. Mr. Ello said that the new 14 foot tall fixtures would be directed down to avoid light trespass onto abutting properties. He said there would be 42" bollard lights with louvered lenses along the walk and there would be up lighting of the current library sign. He indicated the lights will be on sensors and they can work with the Board for any lighting conditions imposed. He indicated there would be wall mounted lights on the building for emergencies and there would be banner lighting or soft up lighting to the front of the building. Ms. Harbottle asked if the DPW or Town Administrator had been consulted about the lighting and if there had been an estimate for cost to run the lights. Mr. Ello said that the lights would be LED which are minimal cost to operate. Mr. Stokes asked for the lighting submittals to be reviewed by the Design Review Committee.

Ms. Burbine said she was very concerned about pedestrian access to the building as there is only one cross walk and one main way into the building with two way traffic by these areas. Mr. Ello said the lower handicap spaces by the cross walk are intended to serve the lower level community room. He said there are additional handicap spaces on the far side of the building entry. He said that the cross walk allows for a visual slowdown for cars and that there are no other cross walks as it is hard to delineate where they should be. Ms. Burbine said that the two way traffic is very concerning as there will be children and drop offs at the main entry. She asked if the area in front of entry could be one way or a cross walk or a drop off provided. Mr. Wartella said that a walkway and drop off would need to meet ADA requirements and the islands take up as much as a 5 to 6 foot drop from one level to the next. He indicated it would be possible to make the main entry one way with signage. Mr. Ello said the lower bay could be one way so that there is one way in front of the building. Mr. Roman asked if a drop off was considered. Joe Sullivan of Daedalus said that more parking is provided so users can park. He said if people pull up to a drop off then there can be car doors opening on two sides which could be a problem. He said that people would abuse a bump out drop off and wants to encourage users to park. Ms. Burbine asked if there could be spaces for parents with infants. Ms. Finnie said that there are just as many elderly patrons and spaces cannot be assigned. The Board agreed that they would like a one way traffic pattern by the entry and it would be up to the designers to find a way to best achieve the goal.

Mr. Pritchard asked about the mechanical systems. Mr. Ello said that all the duct work is changing and the furnaces will be reused as are the condensing units as they were recently purchased in 2009 and meet the stretch code. Janine Beal of 101 Branch Street said that she has already expressed

everything said and was concerned that the lighting glow might be too much and wondered if every other light could be turned off. Mr. Sullivan said that the lights can be programmable so that every other one can be turned off. He said there needs to be safe lighting for the public. Mr. Ello said that they will make sure the lighting is flexible. Mr. Greene moved to make a finding that the site plan entitled Scituate Town Library, Design Development Set dated March 12, 2015 with revisions through March 26, 2015 by Oudens Ello Architecture LLC meets the requirements of the Town of Scituate Zoning Bylaw Section 770.6, Site Plan Review Standards of Review to a degree consistent with reasonable use of the site for the purpose permitted by the regulations of the district in which the land is located, and to approve the Site Plan Administrative Review for the Town Library subject to the following conditions:

1. The site plan entitled Scituate Town Library, Design Development Set dated March 12, 2015 with revisions through March 26, 2015 by Oudens Ello Architecture LLC for expansion of the Town Library is approved except that it may be modified if changes are necessary to meet the conditions below.
2. Six reduced sets of 11 x 17 prints and pdf's shall be provided to the Planning Board prior to the pre-construction conference for distribution to Town departments and for the files.
3. The building shall meet all requirements of 605 CMR 6.00 and the Massachusetts state building code for public library construction.
4. Materials and details of construction shall meet all requirements of the DPW, Board of Health, Fire Department, Conservation Commission, Building Department and Commission on Disabilities. Where this Site Plan Administrative Review 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 approval of this site plan. All necessary permits and approvals must be received prior to construction.
5. Two kitchen areas are proposed. One is to serve solely as a staff break room. The other is to serve as a space for drinks and snacks to be set up during temporary events. There will be no preparing/ cooking of food for the public. All catering, drinks and snacks will come from outside vendors.
6. The number of parking spaces for a library is not specifically regulated by the Table of Minimum Requirements, Section 760.6 of the Scituate Zoning Bylaw, but is included in "All other uses" in this table subject to determination by the Planning Board. The 106 spaces shown on the plans includes 80 spaces based on the standard of one space per 400 sq. ft. for a 32,113 sq. ft. building from 605 CMR 6.08 (5) (e) and in addition, eight handicap spaces and 18 spaces for library staff. The maximum number of staff on is 20. The Planning Board determines that the number of parking spaces as shown on the plans (106) is adequate for the proposed use. The goal expressed by the Planning Board is to create a traffic pattern with one-way traffic flow along the main entrance (west elevation) of the facility. It is left to the design team to modify the present site design to best achieve this goal.

Ms. Burbine read items 7-17

### **Construction**

7. The following items shall be added to the plans prior to scheduling the pre-construction conference:
  - Design data for the sewer pump/ recommended manufacturer and model shall be

specified. Elevations shall be added to the pump station detail as required by the DPW.

- Note 9 shall be corrected as to the name of the Town.
  - A 4" private sewer force main in Branch St. on the library side of the road shall be added to the plans.
  - Hydrant detail shall be added as required by the DPW.
  - A note shall be added that flowable fill is required for any excavation in Branch St.
  - A note shall be added that drain manhole covers shall be constructed of brick.
8. A pre-construction conference will be required prior to the start of construction including a representative of the DPW, the site contractor and the Town Planner.
  9. Prior to scheduling the pre-construction conference, a schedule of construction activities shall be given to the Town Planner.
  10. All work within the ROW of Branch St. shall be coordinated with the DPW. The DPW shall be notified prior to the start of work within the ROW of Branch St. Other than as required by this work, there shall be no parking or idling of vehicles on Branch St. during construction.
  11. Stormwater control measures shall be maintained according to Long Term Pollution Prevention Plan and Stormwater Operation and Maintenance Plan dated March 3, 2015 submitted for the project and the Storm Water Pollution Prevention Plan (SWPPP). All clearing and earth moving operations shall only occur while erosion and sedimentation control measures are in place.
  12. A crushed stone construction entrance as detailed on the plans shall be required and installed prior to the start of work. Water and sediment cannot be discharged into the rain garden/bioretention area until the site is fully stabilized.
  13. The Town Planner is to be notified when erosion control measures are in place, when construction begins and when construction is completed. If deemed necessary by the Town Planner in consultation with the DPW Engineering staff, temporary sedimentation basins, check dams, silt socks and or noise and dust control may be required in addition to the erosion control measures shown on the plan. All erosion control measures shall remain until the Town Planner determines that the danger of erosion or sedimentation no longer exists.
  14. The Conservation and Natural Resources Officer shall be consulted regarding the preferred method of knotweed removal. He shall be notified a minimum of one week prior to the work to review locations proposed to be removed in the field.
  15. The memorial beech tree shall be relocated according to the plans and specifications; however it shall not be relocated within 10 feet of a proposed drain line, drainage structure or underground utility line.
  16. Existing hardwood trees between the Library and 101 Branch St. shall be preserved to the greatest extent possible. Trees intended to be preserved will be flagged prior to the start of construction.
  17. The OPM and Library shall continue to work with the Beautification Committee to identify locations where existing perennials and the memorial stones will be relocated. The beds in front of the Library (shown with liriopé) or facing Branch St. would be good candidates.

Mr. Taylor read items 18 – 21.

18. The following information or plan changes shall be provided:

- The shade tree in the southwest corner of the parking lot should be labelled as to plant type;
- The wet meadow grass mix and lawn mix should be specified on the plan;
- A minimum of three evergreen shrubs should be added to the shrub screen at the northwest corner of the site to provide all year greenery and visual interest;
- Hornbeam, birch, dogwood or linden or a similar tree should be substituted for the Sweetgum tree at the south corner of the building for easier maintenance.
- The rain garden/bioretenction basin details on sheets L 6.1 and C 4.2 should be reviewed and appropriate detail chosen for the site.
- The bioretention basin detail on Sheet C 4.2 shows planting in the basin and refers to the planting plan for plants. The planting plan shows the area to be wet meadow grass mix. The two plans should be coordinated so that what is desired is shown.

19. The following will be reviewed by the Design Review Committee prior to purchase or installation:

- The final exterior lamppost fixtures to be installed in the parking area and on the walkways;
- The final walkway and patio surface treatments (brick paver colors, etc.)

20. Construction work shall not begin prior to 7 AM weekdays and 8 AM on Saturday and shall cease no later than 7 PM or sunset whichever is earlier. No construction shall take place on Sunday or legal/federal holidays.

On further discussion of #6, the following wording was agreed upon “The goal expressed by the Planning Board is to create a traffic pattern with one-way traffic flow along the main entrance (west elevation) of the facility. It is left to the design team to modify the present site design to best achieve the goal.” Mr. Pritchard seconded the motion. Ms. Harbottle said that the ability to adjust the lights in the parking lot is not in as a condition. Mr. Pritchard said he would like it in as it affects the abutters. A new condition 21 was added. “ The lighting in the parking lot shall be programmable as to on-off and intensity.” Mr. Pritchard moved the amended motion with a second by Mr. Vogel. Motion was unanimously approved.

**Public Hearing – Common Driveway Special Permit – 529 -531 Country Way**

**Assessor’s Map/Block/Lot 26-2-3**

**Applicant/Owner: Shamrock Realty Nominee Trust, John Dow, Trustee**

**Documents**

- Application for Site Plan Special Permit with deed and cover letter
- Stormwater Permit application
- Stormwater summary dated 1/15/15
- TSS removal sheet
- Drainage Calculations prepared by SITEC for Shamrock Realty Nominee Trust
- Common Driveway Easement Plan in Scituate, MA prepared for Shamrock Realty Nominee Trust dated 12/29/14

- Common Driveway Plan dated 12/29/14 by SITEC for Shamrock Realty Nominee Trust
- Watershed Plan Post Development Drainage Plan dated 1/14/15 and Watershed Plan Existing Drainage Plan dated 1/14/15
- Transmittal to Town Departments dated 2/4/15
- ZBA decision for 529-531 Country Way dated 9/17/14
- 2/23/15 Engineering Peer Review by Merrill, Inc. for 529-531 Common Drive
- 529-531 Common Drive Agreement
- Email from Deputy Chief Elliott dated 2/26/15 on turnaround
- Email from Jennifer Keefe dated 2/26/15 on septic system
- Documentation for catch basin insert filters
- Drainage summary stamped 3/15/15
- LID Compliance
- Response letter dated 2/26/15 to Merrill's comments
- Revised drainage calculations printed 3/16/15
- Revised draft response letter from Merrill engineers dated 3/20/15
- Revised drainage calculations and memorandum dated 3/24/15
- Revised Common Driveway Plan, Detail Sheet and Easement Plan dated 3/23/15 and 3/26/15
- Peer review response dated 3/26/15

Steve Gioiosa of SITEC was present for the applicant. He said he was previously before the Board for the Form A Plan and before the ZBA for the Section 6 special permit. He said there are 5 structures on site and two of them are houses built in the 1930's. He said he is requesting a common driveway approval to minimize curb cuts onto Country Way with the footprints the ZBA determined would be reasonable. He said the applicant needs to do more perc tests for the septic systems. He indicated there was ample room for emergency vehicle turnaround and parking. Mr. Gioiosa said there would be immediate improvements for water quality with the stormwater management system. He said the stormwater will flow by swale to a catchbasin where it will then be directed toward underground chambers where infiltration will occur. He said secondary overflow will discharge to a level spreader so there will not be a point source discharge. He said peak flows are mitigated and the standards are met for stormwater management. He said there will be additional testing for the recharge areas and that more than 90% TSS is met for compliance with zoning.

Joshua Bows of Merrill Engineers said that they review the project for document compliance, liability areas for the Board and for good engineering practice. He said their report documents compliance and the overall design is sound and can be built as intended. He said maintenance features have been incorporated in to the Common Driveway agreement. He offered that they suggested additional test pits to make sure that the recharge areas are consistent with the design intent and that the flow to Country Way will be dispersed via the level spreader.

Ms. Harbottle said there are 5 existing structures on the parcel which is composed of two lots which are nonconforming as to frontage and not having double the lot area. She indicated that the ZBA issued a special permit for changing the nonconforming structures so there would be no more than 3,800 sq. ft. of living area for each structure which would meet current zoning setbacks. She said that the common driveway is good as it will reduce the number of driveways and that no scenic road hearing is required as the location of the existing driveway is being used.

Mr. Vogel inquired about the square footage limitations that the ZBA issued. Mr. Gioiosa said that the ZBA wanted the structures setback to meet current zoning and to keep them in character with the

neighborhood so they set a size limit. He said there was a plan approved by the ZBA which is what Merrill Engineers reviewed with the drainage. Ms. Harbottle said that the Fire Chief approved the 14 foot wide driveway and the turnaround area. Mr. Pritchard asked if the Operation and Maintenance Plan had the information on the flowguard incorporated in it. Ms. Harbottle said it was in the proposed conditions. Mr. Taylor asked if any of the homes had historical value. Ms. Burbine said they were former chicken coops.

**Findings of Fact:** Mr. Taylor moved to make the following Findings of Fact for the common driveway special permit for 529-531 Country Way:

1. John Dow, Trustee of Shamrock Realty Nominee Trust, filed an application for a special permit for a common driveway serving two lots at 529 & 531 Country Way with the Town Clerk on February 4, 2015.
2. The property at 529-531 Country Way is in the Residence R-2 and Water Resource Protection Zoning Districts. The Planning Board endorsed a Form A Plan dividing the property into two parcels on May 23, 2014. These parcels were nonconforming as lots with respect to lot frontage.
3. On September 17, 2014 the Zoning Board of Appeals approved a special permit/ finding pursuant to MGL Chapter 40A Section 6 to allow two nonconforming single family dwellings to be razed and replaced by two new dwellings, each on a lot with nonconforming frontage, with the condition that each new home not exceed a gross floor living area of 3,800 sq. ft. and that all zoning requirements except frontage must be met.
4. Soil disturbance and vegetation removal is generally limited to what is necessary for the common driveway and its drainage system, septic systems and new homes. The proposed stormwater management system has been reviewed by the Town's consulting engineer, Merrill Inc., whose comments indicate the system has been adequately addressed with the revised plans. The common driveway meets the standards of Section 720.7A.
5. The common driveway has a surface width of 14'. An email was received from the Fire Chief indicating that he approved the width. The common driveway meets the requirements of Section 720.7B.
6. The common driveway is accessed from Country Way, a major public road in Scituate. The common driveway meets the requirements of Section 720.7 C.
7. The water line is shown on the common driveway plan. The common driveway meets the requirements of Section 720.7 D.
8. The common driveway cross section shows a base/binder course and top course of 1 ½" of bituminous concrete each over a 12" processed gravel sub-base. The common driveway meets the requirements of Section 720.7 E.
9. The common driveway is approximately 220 feet in length. The common driveway meets the requirements of Section 720.7 F.
10. The stormwater management system has been reviewed by the Town's consulting engineer, Merrill, Inc., whose comments indicate the system is satisfactory. The common driveway meets the requirements of Section 720.7 G.

11. No driveways, parking areas, turning area or other impervious area is located above the major components of the proposed septic systems which are to be located behind the proposed houses. The common driveway meets the requirements of Section 720.7 H.
12. Screening is shown on both sides of the common driveway along with existing vegetation proposed to remain. The common driveway meets the requirement of Section 720.7 I.
13. A turnaround of 54' in length from end of hammerhead to opposite side of the driveway and 20' in width is provided. The Fire Chief indicated this is acceptable. The common driveway meets the requirements of Section 720.7 J.
14. The consulting engineer has indicated that stopping sight distance requirements at the entrance have been met. The common driveway meets the requirements of Section 720.7 K.
15. Country Way is a scenic road. No additional stonewall or trees greater than 3" caliper are proposed to be removed, thus a scenic road hearing is not required.
16. Based on these findings and information submitted by the applicant and reviewed by the Board, the common driveway meets the requirements of Section 720 of the Scituate Zoning Bylaw.

Mr. Vogel seconded the motion. The motion was unanimously approved.

**Decision:** Mr. Taylor moved that based upon the testimony presented at the Public Hearing and the findings, the Board approve the special permit with the following conditions:

1. One Common Driveway shall be constructed according to plans entitled Common Driveway Plan, prepared for Shamrock Realty Nominee Trust by SITEC, Inc. dated December 29, 2014 with revisions through March 26, 2015 and as further revised to meet these conditions.
2. The Common Driveway shall be constructed to a width of 14' with 2' shoulders on either side, with an emergency turnaround, as shown on the plan. Shoulders shall be cleared and grubbed to a width of 2'. The Common Driveway shall be paved with bituminous concrete in two 1 ½ inch coats with a 12" thickness of processed gravel base.
3. Lots 1 and 2 shall access over a single Common Driveway. No further extensions or attachments of any other roadways or Common Driveways, or other access to any other lots besides those created by the plan shall be permitted.
4. Prior to obtaining building permits, the applicant must obtain all necessary approvals from the Board of Health, Conservation Commission, Fire Department, Building Department and Department of Public Works, and these shall be deemed conditions of the Planning Board approval.
5. 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 of the Board of Selectmen effective October 8, 2014. In accordance with this policy, all irrigation systems installed in Scituate must be supplied by on-site sources at the expense of the property owner.

**Common Driveway/Stone Wall Agreement**

6. A Common Driveway/Stone Wall Agreement shall assign to the owners of Lots 1 and 2 the responsibilities and costs of maintenance and repair of the Common Driveway and emergency



turnaround (including snowplowing), as well as the catchbasins, subsurface recharge system, level spreader, grading, all other improvements for stormwater management in the Common Driveway Easement and the mortared stone retaining wall dividing Lots 1 and 2 for approximately fifty feet.

7. The responsibilities of maintenance in the Common Driveway/Stone Wall Agreement shall include all requirements of the Operation & Maintenance Plan, which shall be attached to the Agreement together with other typical maintenance such as snow-plowing, driveway repair and any necessary repair of the stone wall.
8. The Agreement shall require annual certification by an engineer that the stormwater system is being properly inspected and maintained per the Operation & Maintenance Plan. The Agreement shall be executed by the Planning Board and the homeowners, and shall be recorded at the Registry of Deeds.

### **Finalization of Documents**

9. Requirements for maintenance described in the General Specifications for Maintenance of Flo-Gard+Plus catchbasin inset filters included with the applicant's Stormwater Report shall be added to the Operation & Maintenance Plan.

The Operation & Maintenance Plan shall be provided to the Planning Board as a stand alone document which shall also be included in the Common Driveway/Stone Wall Agreement. A final draft of the Agreement shall be provided to the Planning Board within two weeks of the approval of this special permit.

10. The plans for the Common Driveway shall be submitted to the Planning Board for their signature after the expiration of the twenty day appeal period of this special permit. The plans and special permit shall be recorded together at the Plymouth County Registry of Deeds.

Ms. Burbine read the rest of the conditions.

### **Required Prior to Planning Board Signing Plans**

11. The following notes shall be added to the plan:
  - The lots on this plan shall not be further subdivided.
  - The Common Driveway is owned by the homeowners. It shall not be maintained by the town and shall always remain private. A Common Driveway/Stone Wall Agreement assigns to the owners of Lots 1 and 2 the responsibilities and costs of maintenance and repair of the Common Driveway and emergency turnaround (including snowplowing), as well as the catchbasins, subsurface recharge system, level spreader, grading and all other improvements for stormwater management in the Common Driveway Easement, and the mortared stone retaining wall dividing Lots 1 and 2.
  - New construction must comply with the Zoning Board of Appeals Section 6 finding issued September 7, 2014 which limits the gross floor area of living space for each new dwelling to 3,800 square feet.
  - 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 of the Board of Selectmen effective October 8, 2014. In accordance with this policy, all

irrigation systems installed in Scituate must be supplied by on-site sources at the expense of the property owner.

### **Construction**

12. A pre-construction conference will be required prior to the start of construction including the Planning Board's consulting engineer, the site contractor and the Town Planner.
13. Prior to scheduling the pre-construction conference, a schedule of construction activities shall be given to the Town Planner and the applicant shall provide funds to cover the cost of inspections and attendance at the pre-construction conference by the Town's consulting engineer.
14. The Town Planner is to be notified when construction begins and when construction is completed. All clearing and earth moving operations shall only occur while erosion and sedimentation control measures, approved by the Town Planner and shown on the plan are in place. Such control measures shall remain in place until the Town Planner determines that the danger of erosion or sedimentation no longer exists.
15. Additional soil testing shall be performed at the location of the recharge system and roof drywells for each dwelling prior to the start of construction of the driveway. The testing shall be witnessed by the Board's consulting engineer.
16. Construction of the Common Driveway shall be supervised by a registered professional engineer who shall certify in writing to the Planning Board at completion that the driveway and drainage structures were constructed in accordance with the approved plans. This certification shall be accompanied by as-built plans, signed and stamped by a registered professional land surveyor and the supervising engineer. Inspections will be required for staking of limits of drainage basins and roadway limits prior to clearing and grubbing; grading of drainage basins; placement and compaction of gravel subbase; placement of base/binder; and placement of the top course of the common driveway.
17. Prior to the issuance of an occupancy permit, the Board's Consulting Engineer shall inspect the lots and notify the Board and Building Commissioner that the grading conforms to that shown on the Common Driveway plan.
18. Construction work shall not begin prior to 7 am on weekdays and 8 am on weekends and shall cease no later than 7 pm or sunset whichever is earlier. No construction is permitted on Sundays and federal/legal holidays.
19. There shall be no parking or idling of vehicles on Country Way during construction.
20. No Certificate of Occupancy shall be issued until the Planning Board and Building Commissioner are satisfied that access, construction of the Common Driveway and installation of necessary utilities are in full compliance with the approved plans and the special permit.

### **Administration**

21. The applicant shall post a bond for \$5,000 prior to beginning construction of the Common Driveway to guarantee completion of site work, landscaping and clean-up of the site. After the Town Planner has inspected the site and found grading, loaming and seeding, clean up of earth

materials and construction debris to be complete, these funds shall be returned with interest to the applicant.

22. This special permit shall be void if it is not recorded at the Registry of Deeds within 90 days of the date of filing with the Town Clerk. The owner shall provide proof of this recording to the Planning Board.
23. This special permit shall lapse within two years from the date of its issuance unless substantial use or construction has commenced prior to that time in accordance with MGL Chapter 40A, Section 9.
24. Failure to comply with any condition of this special permit shall cause it to be deemed invalid.

Mr. Pritchard seconded the motion. The motion was unanimously approved. Mr. Greene voted to close the public hearing. Mr. Vogel seconded the motion. Motion was unanimously approved.

**Continued Public Hearing – Mixed Use Special Permit in the Village Business Overlay District - 50 Country Way**

**Assessor's Map/Block/Lot 53-5-3 and 3B**

**Applicant/Owner: 50 Country Way Trust, C. Christopher Ford Trustee**

**Documents**

- Mixed Use Special Permit 50 Country Way Draft Conditions revised dated 3/17/15
- Email chain from Chris Ford to Laura Harbottle dated 3/18/2015

Attorney Guard and Misters Ford and Morse were present. Chairman Limbacher asked that the applicant update them where they are with respect to the easement. Attorney Guard said that he had been in contact with Greystone Management Solutions, an affiliate of the MBTA who handles acquisitions for them, and has emailed and spoken with Mark Boyle, Tom Cox and Melissa McCormack. He told them the original path was mitigation to the Town as part of the MBTA project. He said he provided an overview of the proposed path continuation and the safety vehicle access over the path. He said they talked about the separation between the wall and the rail bed. Attorney Guard said the path was originally not fully constructed as it could not be fully ADA accessible; but the proposed path through the site to Country Way would be ADA compliant. He indicated they asked for a package with an engineered plan for the path to show how it connects to the MBTA station and said they seemed favorable to the project and were eager to analyze it.

Attorney Guard said the original plan for the path was emailed to Tom Cox who thought it was very helpful. Attorney Guard said that the MBTA informed him that once the package was submitted, it would take 30 days for review then they could negotiate the easement if the review was favorable. He said that they are familiar with the project and feels that they can obtain the requested relief. Attorney Guard told the MBTA said that this is the "lynchpin" for the project, so the situation is serious. He said they may not require consideration for the easement given the applicant agreeing to build and maintain the path. He said after the discussions with the MBTA, he is very optimistic that they will grant the easement. Mr. Ford said the MBTA was afraid that a truck would back into a train and what is being proposed is really what was originally proposed. Attorney Guard said their initial questions showed they did not understand the site or where the sound wall was, but after the detailed explanations he thought they now did. He said the MBTA requested a narrative, engineered layout, cross sections and overall plan from Country Way to the train station. He said they would

review the information and if favorable negotiate an easement. Attorney Guard said there was no indication that an easement was ever done for this section of path. Mr. Vogel asked if the easement would be in favor of the Town for access and the applicant for maintenance. Ms. Harbottle said that DPW and the Town does not want any maintenance responsibility or liability for the path and it sounds like the applicant has made good progress themselves with the MBTA. Attorney Guard said they did not discuss a private entity being the grantee of the easement. Mr. Taylor asked who maintains the path now. Ms. Harbottle said the MBTA is responsible. Mr. Ford said that he thought the Town must have plowed part of the path now and showed some pictures to the Board.

Ms. Burbine said that the issue is still unresolved and she thinks the Board should wait to make a decision until everything is in order. Mr. Taylor said he wouldn't mind it as a condition. Chairman Limbacher said this is "the lynchpin" to the development. Mr. Ford indicated that he could reduce the development by 4 units and not have to have a public benefit. Mr. Pritchard said that emergency egress is still needed. Mr. Ford indicated that fire trucks drive anywhere they want if they need to get somewhere. He asked to go through the conditions and have the agreement with the MBTA as a condition and withdraw the permit if the MBTA does not grant the easement. Attorney Guard asked for the MBTA agreement as a condition as he wants to show the MBTA it is absolutely required. Chairman Limbacher said that a special permit is issued with the expectation that it can be built and he thinks they are not there yet, but 30 days away. Ms. Harbottle said the Board can go through the conditions minus condition 6, the applicant will do a submittal to the MBTA and after the 30 days passes, a final vote could occur. Mr. Ford said the development is on the market with interested buyers and thinks the situation with the MBTA is achievable and can be conditioned. Attorney Guard clarified that the conditions to be read and there will be no vote until after 30 days when they submit information from the MBTA to the Town Planner who will distribute it to the Board and then a vote can occur at a meeting. The Board agreed and said that at the time of the vote condition 6 will be revised to reflect the decision from the MBTA.

The Board went on to read the special permit conditions having gone through items 1-20 on March 12, 2015. The Board decided they would go back to condition 6 after information is obtained from the MBTA. Chairman Limbacher asked to go back to condition 5 and add wording similar to "All units will either be rental or condominium and not be mixed." The Board concurred as the affordable units have to be the same as the others.

### **General Requirements**

1. All construction work shall be done in accordance with the plans submitted by Morse Engineering Company, Inc. entitled Proposed Mixed Use Development, 50 Country Way (Assessor's Parcels: 53-5-3 & 53-5-3B) Scituate, Massachusetts, dated October 13, 2014, as revised through February 20, 2015, with any additional revisions needed to conform to the conditions contained herein (the "Mixed Use Special Permit"), the renderings provided by e-mail of 3/5/15 with respect to the buildings, and with the Site Plan/Roof Plan (Sheet A101), Level 1, 2 and 3 Area Plans (Sheets A102, A103 and A104), and A, B and C Building Elevations (Sheets A105, A106 and A107) by Dr. Paul Ford, PhD in architecture. Final elevations shall be approved by the Planning Board prior to scheduling the pre-construction conference. The Planning Board may require buildings to conform to the elevations or renderings at their discretion. Landscaping shall be as shown on the plans by Morse Engineering.
2. Where this Mixed Use 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

Mixed Use Special Permit, including but not limited to the Board of Selectmen's approval of work in the public right-of-way of Country Way. All necessary permits and approvals must be received prior to construction.

3. Construction shall meet all requirements of the Scituate Zoning Bylaw. All conditions of approval shall be inscribed on the Mixed Use Special Permit plan.
4. The applicant shall mean the current applicant and all its successors in interest (the "Applicant"). This 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.
5. The total number of residential dwelling units on the site shall not exceed thirty (30). The housing mix shall be 16 one (1) bedroom units and 14 two (2) bedroom units. The total number of bedrooms shall not exceed 44 using the definition of a bedroom by Title V. "All units will either be rental or condominium and not be mixed."
6. A critical component of emergency access to the project is emergency egress/public access path within the MBTA ROW adjacent to the property. If the MBTA does not agree to the emergency egress /public access path, the applicant shall submit an alternative plan for emergency egress/public access. This alternative must be approved by the Planning Board following a public hearing on an application for a modification to this special permit. Hold until after MBTA information provided.

#### **Utilities, Parking and Traffic**

7. Unless and until a Property Owners Association/ Condominium Association is formed, maintenance and repair of the driveway, parking areas, stormwater management system, retaining walls, emergency egress/public access path including snow removal, lighting, landscaping and emergency access shall be the responsibility of the owner/applicant.
8. 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. All irrigation systems installed in accordance with the policy must be supplied by on-site sources at the expense of the property owner.
9. All parking will be constructed as shown on the Plan, as shown in the Table on the Site Layout Plan (Sheet 3 of the Proposed Mixed Use Development Plan.) Marketing material advertising the sale of the residential units shall include the parking limitations noted in this Table.
10. All buildings, parking, walkways, paths and required signage shall meet all requirements of the ADA and Scituate Commission on Disabilities.
11. Traffic from the site shall be monitored from 6 months to 2 years after occupancy to verify traffic is in accordance with the projections for the site. The Planning Board's consulting traffic engineer's analysis of the impact of the project on existing Town roads was based on the project's generation of 270 additional vehicle trips on an average weekday, with 25 additional trips during the weekday morning peak hour and 52 additional trips during the weekday evening

peak hour (VAI letter to John Chessia of February 18, 2014.) No uses shall be established which increase the project's total trip generation above these amounts.

12. Trash removal operations shall be monitored from 6 months to 2 years after occupancy to verify that there are no safety issues with trash removal as significant back up distances are proposed. Trash removal operations shall be reworked if safety is found to be an issue. [Recommended by Traffic Study]
13. All electrical, telephone, cable and similar utilities shall be located underground.
14. The applicant shall obtain the approval of the Planning Board through the Town Planner if minor changes from the plan and/or details are needed for lighting, signage or landscaping.

### **Affordability**

15. All affordable units shall meet the requirements for inclusion in the Subsidized Housing Inventory through the state's Local Initiatives Program (LIP).
16. According to Section 560.7 D, the number of one and two bedroom affordable units shall be in the same proportion as the market rate units. Two affordable units shall contain one bedroom and two shall contain two bedrooms.
17. The affordable units shall be constructed so that the first is completed and available for occupancy before the seventh market rate unit, the second affordable unit, before the fourteenth market rate unit, the third affordable unit, before the twentieth market rate unit, and the last, before the twenty-sixth market rate unit.
18. The applicant or their representative shall be responsible for preparation of a LIP Local Action Units application for the affordable units to be submitted to DHCD by the municipality (chief elected official). Forms and assistance will be available from the Planning Department.

### **Phasing and Public Benefits**

19. The phasing of the project shall be according to the applicant's proposed phasing schedule attached to this approval.
20. An emergency egress and public walkway shall be required. Both shall connect from Country Way through the site to an improved emergency egress/public access path from the site to Drew Place. The Property Owners Association/ Condominium Master Deed documents shall include a statement that the emergency access and public walkway must be maintained by the Association. This maintenance shall include snow plowing.

Construction of the path shall include additional related improvements as follows:

- a. Within the site, emergency access/egress shall be over the driveway and the island in the parking area at the rear of the site. The island shall be improved with pervious pavement capable of supporting a fire truck along the access route and 4" of loam and seed throughout, with moveable pilons along the front side to discourage parking. The cape cod berm shall be replaced with sloped granite curb. A No Parking – Fire & Emergency Access sign shall be installed at the front of the island.
- b. The public walkway on the site shall be constructed of concrete and brick as shown on the plans within the site except within the island at the rear of the parking lot (see above).

- i. Permanent easements shall be recorded granting the public access over the walkway.
- ii. An informational sign indicating “public access path” or similar shall be installed of a style coordinated with other public wayfinding signs in Town indicating the path is public (or funding to cover the cost of same, at the discretion of the Planning Board) and identifying some possible destination(s).
- iii. A vertical granite curb of a minimum 6” in height shall be used along the north side of the driveway up to and around the curve of the entry island for approximately 25’ (total) and along the south side of the driveway around the entry island and on the west of the parking area for approximately 70’ (total). .
- iv. Fencing as shown on the plan shall be used to separate the path from the multi-unit buildings.
- v. Bike racks shall be provided at each building as per Scituate Zoning Bylaw Section 760.7 E.
- c. The following improvements and related items are required for the emergency egress/public access path in the MBTA right of way:
  - i. The surface of this portion of the emergency egress/public access path shall be improved with pervious pavement 10’ wide with 1’ gravel shoulders on each side.
  - ii. The Condominium or Property Owners Association shall be required to maintain this portion of the path, including snow plowing, and the Master Deed or Owners Agreement shall include a description of this maintenance, documentation that the MBTA will allow it, and indicate who will provide it.
  - iii. The plan must show all area required in or adjacent to the proposed emergency access, required to be travelled by a fire truck as shown by the area under the wheels and within the expected travel path as per the plan, as part of the path. This path shall be improved with hardening and/or other material as needed to support and provide access for a fire truck as specified by the Fire Dept.
  - iv. Existing trees in the MBTA ROW that must be removed to construct the emergency egress shall be replaced in the ROW or on the site, with new trees of a minimum of 3” caliper dbh. These shall be in addition to the new trees shown on the Landscaping Plan.
  - v. Lighting, including seven fixtures to match those along the MBTA path, shall be located along the path on the MBTA property and the site. The applicant must provide all necessary electrical connections for the lighting.

On 3/26/15, Ms. Burbine picked up reading the following conditions:  
(Comments/changes are in italics and underlined)

**Required Prior to Release of Special Permit to Applicant for Recording**

- 21. The plans shall be updated as discussed with Greg Morse on March 9, 2015.
- 22. Funds shall be provided for review of a Property Owners Association Agreement or Condominium Master Deed by Town Counsel.

**Required Prior to Scheduling the Pre-Construction Conference**

23. The final building plans, stamped by a registered architect, shall be provided to the Planning Department 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. The applicant shall provide proof that the Special Permit was recorded to the Planning Board along with the plans.
24. Documentation shall be provided to the Planning Board in the form of a written agreement signed by both the owners of 50 and 52 Country Way that the owners of 52 Country Way (presently occupied by Morning Glories bakery) agree to:
  - a. The Applicant's installation of proposed sidewalk and curb within the Access and Utility Easement near the bakery and on their property.
  - b. Striping the driveway, and
  - c. The on-going and perpetual maintenance of a manhole and two leaching catch basins in the access and utility easement on their property, initially by the Applicant and ultimately by the Condominium Association or Property Owners' Association of 50 Country Way.
25. The applicant's plans show the existing 1856 George Wetherbee House will be preserved by moving it to the front of the lot and incorporating it within Building A. The developer shall engage a licensed structural engineer to assess the condition of the house, its suitability for re-use, the feasibility of completing renovations as required by the State Building Code while maintaining the exterior facades and porches of the building, and of moving these and successfully incorporating them within a new structure as shown. He/she shall prepare a stamped, written report for the Planning Board on these items with a plan to address significant structural, heating, electrical, plumbing or other system issues or required upgrades. He/she may consult an architect or historic preservation professional as needed.

The Planning Board shall have this report reviewed by a qualified structural engineer, architect and/or historic preservation specialist who shall serve as their consultant at the applicant's expense. If in the opinion of the Planning Board's consultant, these upgrades or issues cannot be addressed, or the house cannot be moved without significant damage, an alternative design for Building A shall be submitted to the Planning Board. This design shall include a façade similar to that of the Wetherbee House. This alternative design shall be reviewed by a historic preservation consultant at the applicant's expense who shall report to the Planning Board on the appropriateness of the proposed façade relative to the size, design, character and historic period of the building it was intended to replace. The new façade shall be approved by the Planning Board prior to the pre-construction conference. (Mr. Ford said the plan as shown is what the building will look like and he thinks this is a duplication of experts. Chairman Limbacher said his point was heard.)

26. The development shall obtain all necessary approvals for the use of Town sewer prior to scheduling a pre-construction conference.
27. A determination of the adequacy of the existing water service for the proposed use shall be provided to the DPW for their approval prior to scheduling a pre-construction conference. Installation of all water mains and appurtenances shall be performed according to the specifications of the DPW Water Division. Any required upgrades, modifications or connections shall be at the Owner's expense.
28. The applicant shall furnish written proof from the MBTA of their approval of all work relating to installing the proposed emergency egress and public access path over MBTA property including



grade changes, tree removal and replacement and placement of pervious pavement and gravel shoulders, and that any easements required by the MBTA for these uses have been obtained prior to scheduling the pre-construction conference. (Ms. Burbine asked how his differs from #6. Ms. Harbottle said it could be taken out. Chairman Limbacher said it should be in #6.)

29. Prior to scheduling the pre-construction conference, the developer shall contact Janice Lesniak of the Massachusetts Dept of Housing and Community Development (617-573-1327) to determine the purchase price(s) or rent(s) of affordable units based on LIP Guidelines and discuss other requirements for the affordable units as described in Condition 42 below.
30. Prior to scheduling the pre-construction conference, the Applicant shall provide to the Planning Board:
  - a. Copies of the recorded special permit and plans.
  - b. Copies of the NPDES Permit including its Stormwater Pollution Prevention Plan.
  - c. 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 9.2, for the driveway, parking areas and stormwater management systems, and in addition, inspection of applicable items in the Construction Sequencing Narrative, the existing drainage system in the driveway, new curbing and retaining walls. 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.
  - d. A construction schedule including approximate dates for installation of erosion control and other site protection/stabilization, construction of Buildings A, B and C, all applicable items in Subdivision Rules and Regulations 9.1.3; and
  - e. A Performance Bond to cover the cost of parking, landscaping, walkways, and other amenities including the emergency egress/public access path. The amount shall be based on the applicant's contractors' estimates of the costs of these items and shall be approved by the Planning Board prior to the pre-construction conference. (Mr. Ford asked if it was the same consulting engineer overseeing construction as reviewed the plans. Ms. Harbottle indicated it was.)
31. The Applicant shall provide a draft Condominium Master Deed or Owners Agreement to include the owner(s) of the retail, office units and residential units. The Condominium Master Deed or Owners Agreement shall include:
  - a. A statement that the driveway, drainage system, sewer, public and private pedestrian access through the site, landscaping and other common areas shall be owned by a Condominium Association or Property Owners' Association and shall not be maintained by the Town. The driveway, drainage system, public and private pedestrian access through the site, landscaping, lighting, tree box filters, stormwater leaching system within the Zone A on the bakery property and other common areas shall be inspected, maintained and repaired by a legally constituted association of the Property Owners or a Condominium Association. This shall also be stated in a note on the plan.

- b. A requirement that maintenance of the drainage system, pedestrian walks, parking, driveways, emergency egress and landscaping shall be in accordance with the Operation and Maintenance Plan approved by the Planning Board's consulting engineer; provisions for snow removal and maintenance of safe conditions through the winter of all vehicle and pedestrian ways; and a description of annual maintenance of the driveway, parking areas, emergency egress/public access path, landscaping, lighting and other common amenities.
- c. A requirement that the Association maintain an account always containing a minimum of one year's costs for this maintenance. A contractor's estimate of this maintenance and proof of the available funds in this account shall be provided to the Planning Board with the Agreement and annually on the first of the year.
- d. A requirement that the developer notify contractors, builders and real estate agents that membership in a Property Owners Association or Condominium Association and a table showing the available parking for each unit are required to be disclosed to all prospective buyers. The developer shall make copies of the Condominium Master Deed or Property Owners Association Agreement available to be provided to all prospective purchasers of units in the development.
- e. The Town Planner shall be added to the Town of Scituate contact information on page 1 of the Construction Phase Best Management practices.
- f. A requirement that the Property Owners Association or Condominium Association notify the Planning Board of the name, address, phone no. and e-mail of the trustees within seven days of their election, and to provide an annual report of their maintenance activities to the Planning Board by January 1 of each year.
- g. A table of the number and general location of parking spaces assigned to each unit. (Mr. Ford said there would not be assigned spaces.)

#### **Required Prior to the Start of Construction**

- 32. A pre-construction conference shall be held with the Applicant, their representatives, their engineer, the site contractor(s), the Town Planner, 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 and the DPW. At least one telephone contact shall be available 24 hours per day in the event of an emergency.
- 33. The property line between #50 and #52 Country Way and boundary of the limit of clearing 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.
- 34. A stabilized construction entrance as shown on the Sedimentation & Erosion Control Plan (Sheet 5 of the Proposed Mixed Use Development Plan) must be installed prior to any earth disturbing activities on site including but not limited to clearing and grubbing. Construction access must be clearly identified on the site with signage approved by the Town Planner.
- 35. The developer shall request a permit to demolish the existing historic barn and consult with the Historic Commission to determine whether a demolition delay will be required. A pre-moving survey shall be completed a minimum of thirty days prior to application for permits to move the Wetherbee House.

### **Required During Construction**

36. 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 sunset whichever is earlier. No construction shall take place on Sundays or legal/federal holidays.
37. All earth moving/disturbance operations shall only occur while erosion and sedimentation control measures as shown on the Sedimentation & Erosion Control Plan (Sheet 5 of the Mixed Use Development Plan) and approved by the Town Planner are in place. Such control measures shall remain in place until the Board's consulting engineer determines after consultation with the Town Planner, that the danger of erosion or sedimentation no longer exists.
38. No parking or unloading on Country Way shall be permitted during construction. Construction vehicles shall use the designated construction access. They are not permitted to use the existing access and utility easement during peak morning bakery hours of 7:00 to 9:00 a.m. **Access to Morning Glories' driveway, parking area, building and property must be maintained at all times.**
39. The Applicant shall notify the owner of Morning Glories (52 Country Way) a minimum of three business days prior to the installation of the curb to be placed within the Access and Utility Easement. This curb installation work shall not occur before 9:00 a.m. or up to three days prior to Easter, Valentine's Day, Thanksgiving or Christmas Day or any other four holidays defined by the owner of Morning Glories.
40. Inspections and observations made according to the Stormwater Pollution Prevention Plan (SWPPP) shall be submitted to the Board within 48 hours after the inspections. The Board reserves the right to require the consulting engineer to visit the site weekly during times when required construction inspections are further than one week apart.
41. Construction of the proposed parking and site drainage system shall be supervised by a registered professional engineer who shall certify in writing to the Planning Board at the completion of the project that the parking and drainage system were constructed in accordance with the approved plan. This certification shall be accompanied by as-built plans, showing all site utilities and grading, signed and stamped by a professional land surveyor and the supervising professional engineer.

Mr. Taylor continued reading starting with condition 42.

### **Required Prior to Application for Building Permits**

42. Prior to applying for a building 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 rental or sales price of the affordable units, and estimated condominium fee if applicable;
  - c. A draft deed restriction to restrict the rental or subsequent price if a condominium, to 80% of the area median 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 first Occupancy Permit for an affordable unit;

- d. A plan showing the location of the affordable units 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 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 about availability of the unit(s) and must demonstrate the need for local preference as well as insure that there will be no discriminatory impacts as a result of using local preference criteria. A maximum of up to 70% of the units may be local preference units for those who have a connection to the community as defined by the state under Section III.C of the Comprehensive Permit Guidelines. If in the opinion of the Planning Dept. the plan does not meet the current requirements of DHCD for inclusion of the affordable units on the Subsidized Housing Inventory, revisions shall be required prior to application for the second building permit.
  - g. Any changes to the affordability documents must be approved by the Town Planner per Condition 18.
43. The retaining wall behind Building C shall be designed by a structural/ geotechnical engineer. The Planning Board must be provided a copy of the stamped approved plans prior to any application for a foundation or building permit for any unit.
44. Detail of proposed retaining wall with wooden guardrail adjacent to the MBTA right-of-way must be submitted to the Town Planner for approval prior to any foundation or building permits being obtained for the site.

#### **Required Prior to Issuance of Occupancy Permits**

45. Following review and approval by the Planning Board, the Condominium Master Deed or Owners Agreement shall be recorded at the Registry of Deeds prior to the Building Department's issuance of an occupancy permit. Proof of recording of the Property Owners Association Agreement or Condominium Master Deed must be provided to the Planning Board.
46. Prior to issuance of an occupancy permit for Building A, a deed restriction shall be recorded requiring the façade of Building A to be preserved for a minimum of thirty years.
47. The emergency egress/public access path must be constructed prior to occupancy of any building on site.

#### **Administration**

48. All time periods referenced in this document for completion of conditions shall be tolled in case any appeals are taken.
49. This Special Permit shall be void if it is not recorded at the Registry of Deeds within 90 days of expiration of the appeal period or such extension of that time period granted by the Planning Board following approval of this Special Permit.
50. Building A shall be completed within five years of the date of recording of this special permit.
51. This Special Permit shall lapse within two years from the date of its issuance unless substantial use or construction has commenced prior to that time in accordance with MGL Chapter 40A, Section 9.

52. All plan sheets of the Mixed Use Development Special Permit Plan shall be recorded at the Registry of Deeds.

Chairman Limbacher suggested that all of the changes be put into a document for next time except for the final wording for condition 6.

The Board discussed that the applicant would like a letter from the Board stating their support for the path and that emergency egress is required in the easement. Ms. Harbottle said that such a letter or email would need to come from the Town Administrator who would likely want to put it in front of the Board of Selectmen. Attorney Guard asked if Ms. Harbottle or the Board could provide an email to the MBTA stating that the emergency egress is necessary for the project. Ms. Harbottle said that would be the Town Administrator's job to deal with a state agency. Ms. Burbine suggested that the approved meeting minutes are a public document and could serve the intended purpose.

Mr. Taylor moved to accept the applicant's request to continue the public hearing for the for the Mixed Use Special Permit in the Village Business Overlay District for 50 Country Way until May 14, 2015 at 7:30 p.m. and to continue the time for action until June 30, 2015. Mr. Pritchard seconded the motion. Motion was unanimously approved.

**Form A – 26 & 28 Mordecai Lincoln Road**

**Assessor's Map/Block/Lot 13-02-29 & 30**

**Applicant/Owners: Scott R. & A. Gary Anderson & Scott R. & Laura J. Anderson**

**Documents**

- Application, deeds and Plan of Land in the Town of Scituate, MA 26 & 28 Mordecai Lincoln Road prepared by Ross Engineering Co., Inc. for applicants Scott R. and A. Gary Anderson dated 3-3-15
- Transmittal to departments dated 3-18-15
- Emails from Gary Anderson and Laura and Scott Anderson dated 3/19/15 granting permission for Paul Mirabito to act as agent for the application

Chairman Limbacher recused himself from this matter as he is an abutter. Ms. Harbottle said that it was a recombination of lots without having less frontage than each lot presently has and meets the requirements.

Mr. Taylor moved to endorse as approval under the Subdivision Control Law Not Required a Plan of Land in the Town of Scituate, MA 26 & 28 Mordecai Lincoln Road prepared by Ross Engineering Co., Inc. for applicants Scott R. and A. Gary Anderson dated 3-3-15 as the division of land is not a subdivision because it shows a change in lot line which does not alter the existing frontage as required under the Scituate Zoning Bylaw. Ms. Burbine seconded the motion. Motion was unanimously approved.

**Discussion on Town Meeting**

Ms. Harbottle asked the Board about the format for Town Meeting. She inquired if they just want the report read for each article or do they want diagrammatic illustrations in a PowerPoint presentation for the Board's two articles. She indicated the Planned Development District article will have a PowerPoint presentation. She said it would be about \$1,200 for diagrammatic illustrations to put into a PowerPoint presentation. Mr. Pritchard thought that a PowerPoint would

be valuable as a visual representation. Mr. Taylor thought that handouts and a PowerPoint would be good. Chairman Limbacher and Ms. Burbine were not in favor of a PowerPoint presentation. Ms. Harbottle offered that the diagrammatic illustrations would help people to understand what they are voting on as there will be opposition. Mr. Vogel said it would also give the Board presenter something to focus on. Mr. Greene, Mr. Taylor, Mr. Vogel and Mr. Pritchard thought both would be helpful. Ms. Harbottle said they would hopefully be done before the next meeting for the Board to review. The Board concurred that both would be done with the handouts being the PowerPoint Presentation.

It was determined that Ms. Burbine would present the Accessory Dwelling Article, Chairman Limbacher would read the Planning Board report on the Planned Development District and Mr. Pritchard would do the presentation for the building height article.

### **Vote Planning Board Reports to Town Meeting**

#### **Documents**

- Article 16 – Building Height Definition and Side Setback in FEMA Flood Zones
- Article 17 – Establish Maximum Size, Accessory Dwellings

Mr. Taylor moved to approve the reports to Town Meeting in support of the zoning articles as written. Mr. Pritchard seconded the motion. Motion was unanimously approved.

### **Vote Housing Production Plan**

#### **Documents**

- Revised Scituate Housing Production Plan dated March 2015 by Karen Sunnarborg, Consultant with technical support from Laura Harbottle, Town Planner

Mr. Taylor moved to approve the Town of Scituate Housing Production Plan dated March 2015 prepared by Karen Sunnarborg, Consultant with technical support from Laura Harbottle, Town Planner. Mr. Pritchard seconded the motion. Motion was unanimously approved.

### **Accounting**

#### **Documents**

- PO # 15060132 (\$25.00), PO # 1506084 (\$39.82), PO # 1506172 (\$99.74)

Mr. Taylor moved to approve the requisition of \$25.00 to Laura Harbottle for reimbursement for an Inclusionary Zoning Workshop held on 3/18/15, \$39.82 to WB Mason for office supplies and for \$99.74 to Laura Harbottle for mileage reimbursement. Mr. Pritchard seconded the motion. Motion was unanimously approved.

### **Minutes**

Mr. Pritchard moved to approve the meeting minutes of 3/12/15. Mr. Taylor seconded the motion. Motion was unanimously approved.

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

**Documents**

- Email to Board members dated 3/20/15 with staff comments on several projects

These items were distributed to the Board electronically.

Mr. Vogel moved to adjourn the meeting at 10:55 p.m. Mr. Greene seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph  
Planning Board Secretary

Richard Taylor, Clerk

4-13-15  
Date Approved