

**SCITUATE PLANNING BOARD MINUTES April 24, 2014**

Members Present: William Limbacher, Chairman; Stephen Pritchard, Vice Chairman; Richard Taylor, Clerk; Robert Vogel and Robert Greene, 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, Scituate, MA.

Chairman Limbacher called the meeting to order at 7:30 P.M. The meeting was being recorded for airing on the local cable television station.

**Documents**

- 4/24/14 Planning Board Agenda

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

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**Flexible Open Space Definitive Subdivision - Deer Common - 530 C J Cushing Hwy – Surety/Lot Releases**

**Documents**

- 3/11/14 Surety Estimate Review by Beals & Thomas for Deer Common
- 3/25/14 Lot release request from Deer Common II, LLC
- Email from Laura Harbottle to Beals & Thomas dated 4/17/14
- Email from Laura Harbottle to Beals & Thomas with pictures of the site dated 4/17/14
- Email from Laura Harbottle to Beals & Thomas with endorsed plans dated 4/17/14
- Email from Laura Harbottle to Terry Tedeschi dated 4/17/14
- 2 emails from Terry Tedeschi dated 4/22/14

Terry Tedeschi and Mark McSharry of Deer Common II, LLC and Greg Tansey of Ross Engineering were present for the applicant. Mr. Tedeschi indicated they are seeking lot releases for all 12 lots and a surety estimate has been done by Ross Engineering and reviewed by Beals and Thomas. He indicated they would like to post \$136,000 to be able to sell the lots. He indicated that they have several interested parties.

Ms. Harbottle said that this is not a simple situation in terms of all the lots being released. She indicated that a contractor will want to come in and obtain a building permit as soon as the lots are released. She said that the Board needs to consider that the water connection to the Town system at Route 3A has not yet been completed. She also indicated that with the rainstorm a week ago that after 4 days water still remained in the basin. She said it appears that the basin is not draining. She indicated that the Town can ask for additional funds for the drainage work, but she is not sure that lot work and basin work should be proceeding simultaneously. She indicated that Planning Board Assistant, Karen Joseph, spoke with DPW today who indicated that the estimate was light on a few items. She indicated that DPW thought an additional \$30,000 may be needed for stormwater basin

redesign, an additional \$10,000 for the septic system and an additional \$10,000 to \$20,000 for the water line across Route 3A and added contingency so that the surety estimate should really be about \$200,000. She asked if there was 4 feet of separation in the basin to the high groundwater mark and indicated that could be a reason for the basin not draining. She said that the basin does have grass vegetation present.

Mr. Tansey said that the forebay of the basin is designed to be wet. He said it then flows to Basin 1 and Basin 2 then the level spreader. He said Basin 1 and 2 were designed to hold 6" to 9" of water and then infiltrate the water. He said the basin has not gone through a full growing season and there is grass growing, but it is not fully established. He said the heavy frost of the winter brought up many rocks and sticks, but that can be remedied. Mr. Tansey said the basin was designed for 3 feet of separation from the high water table. He said that DEP requires 1 foot, but they have the 3 feet as the site is in the Water Resource Protection District (WRPD). He indicated it has been a wet spring and the basins have not been allowed time to have a mature lawn. He said that once the trees leaf out, the groundwater level will drop and the basin will dry out and give time for the grass to re-establish. Mr. Tansey said that this time of year there is a lot of condensation in the system and water in the pipes. He said the area below the basin is saturated and it will be hard for the basin to dry out. He said that when the water table drops the basin will dry out. He said that the parent soil material is causing water to surcharge in the basin. He said if the basin does not dry out, one remedial action could be to place a small pipe with a valve between basin 1 and 2 to let the water drain.

Ms. Harbottle indicated that because the site is in the WRPD, there should be infiltration and the Operations and Maintenance Plan indicates that if the maintenance contractor observes water not draining in 48 hours then corrective measures are needed. She also indicated that there is also standing water in the level spreader area. Mr. Tansey said that the level spreader is not part of the infiltration area and he observed some rocks visible there. He said that if there is standing water in the basin when there is not elevated groundwater, there is an issue. He said if the soil is saturated, there is no place for the water to percolate so there will be standing water in the basin; but it will dry out in later months. He said that the valve can work during construction and afterward and that he designs basins differently now. Mr. Tansey said that the basin is built per the plan and the inverts are correct. He said that the basin does mitigate stormwater and runoff is controlled. He said that there won't be infiltration this time of year.

Chairman Limbacher asked how can one tell where groundwater is. Mr. Tansey said it is at the bottom of the basin this time of year. Mr. Taylor asked about 3 versus 4 feet of separation from the bottom of the basin to the groundwater table. Ms. Harbottle said it should be 3 feet. Mr. Taylor asked about the design time for the basin to drain. Mr. Tansey said it must drain in 72 hours by DEP standards, but is designed for 48 hours. Ms. Harbottle said it has been 4 days. Mr. Tansey said the basin was not infiltrating. He said there is a connection between the type of soil in the basin and the groundwater this time of year. He said if he were to design the basin now he would add a pipe to the outlet control structure so that it would drain this time of year. Mr. Tansey said this design was accepted when it was permitted and it is not a substantial retrofit to install a small pipe. Ms. Harbottle asked if there be some design involved. Mr. Tansey said he would like to see the site go through a full year cycle. He said the basin should dry up in normal circumstances. Mr. Taylor asked if the stormwater design should work before the site is completed. Ms. Harbottle indicated it should. Mr. Pritchard said he would have expected the design to address the issue of high spring groundwater.

Mr. Tansey said that at the time the project was permitted it was not factored in. He said he originally proposed a catch basin grate at the bottom that would have helped the basin drain, but said the peer engineer questioned what would happen if it was clogged. He said he believes the basin will drain. Mr. Tedeschi said he would like to give the situation a little time and suggested that next spring would be a good time to review it. He said he is willing to put the safety valve in now. Mr. Tansey said that the stormceptor and wet forebay account for the required TSS removal. He said that pellets can be used for mosquito control. Mr. Pritchard asked if the wet forebay evaporates or infiltrates. Mr. Tansey said that it stays wet and wetland vegetation will grow so that groundwater is treated by the vegetation absorbing pollutants prior to the water being flushed to the basin in a subsequent rainstorm. He said a future drain would be between basin 1 and 2 and not in the forebay. He indicated that the Homeowner's Association would be responsible to operate and maintain the valve. Chairman Limbacher asked why the valve would be closed once open. It was indicated that the stormwater would flow too fast through the system.

Mr. Vogel asked if the groundwater level was tested to determine that there was the required 3 foot separation between the basin and groundwater. Mr. Tansey pointed out the locations of the testing and confirmed there was 3 feet. He said the test pits were probably done in October. Steve Bjorklund, formerly involved with the project during the design phase, indicated that groundwater level can be determined any time of year as it is based on soil mottling. He said the mottles don't go away and are found at the high groundwater elevation. He said that the design of Tilden Estates incorporated a stone wick at the bottom of the basin. The wick has stone wrapped in filter fabric to ensure drainage. He said the basin also has a slope to the outlet and is not flat. Mr. Vogel asked if the groundwater is closer to the surface than originally thought. Mr. Tansey said there is temporary mounding due to water in the basin. Mr. Vogel asked if the same thing could happen to the septic system. Mr. Tansey said that the septic system is designed for the mounding and it is not equitable to compare the two. Mr. Vogel asked if there were any plants that could speed up the infiltration. Mr. Tansey again said the system needs more time to be established.

Chairman Limbacher asked about the schedule for the water line completion since the water drives the building permit issuance. Mr. Tedeschi said it will start on May 12 and take approximately 2 weeks. He suggested that it would take several weeks before a building permit would be ready to be issued and he would like the process to go smoothly. Ms. Harbottle said some people come in immediately for permits. Mr. Taylor asked if the Board could condition the lot releases. Chairman Limbacher said there was a difference in what the DPW is suggesting and what the surety estimate says. Ms. Harbottle suggested maybe a little more work is needed with installation of the water line and review of the wick. Mr. Tansey said it is a very simple design fix. Mr. McSharry said the wick could be installed in a day. Mr. Tedeschi said they will do a wick and a valve immediately and if they need to increase surety they will. Mr. Taylor said the wick seems reasonable, but asked if the applicant would need to come back in the future if the basin still had a water issue. Ms. Harbottle said that they would need to come back to have money released and the Board could wait for a growing season to do that. She said the Board may want to hold the releases until the water main is connected.

Chairman Limbacher summarized his concerns as follows: 1) he would like to see the weir put in and verification of the work 2) he would like to see the water line connected 3) he is not sure if he would release all of the lots at the same time 4) he is concerned about the discrepancy between the DPW number and the applicant's surety number. Mr. Pritchard said that the Board should not be designing a solution to the drainage. The applicant should come back with a design to solve the problem. Ms. Harbottle said the Board could hold \$30,000 for drainage now and return it if it is not

needed. Mr. Pritchard said he would like to see the drainage addressed now and the water main installed. He said that he does not want to release the lots until they have a value. Mr. Tedeschi said that they could come back in 30 days and spend the money that they would need to put up on the work itself. Ms. Harbottle said that it would be longer than 30 days as the May meetings are full. Ms. Joseph indicated that the June date accommodates the water line work as it would likely not be complete by the May 22 date. Mr. Taylor moved to continue the public discussion on the lot releases until June 12 at 7:30 pm. Mr. Vogel seconded the motion. Motion was unanimously approved.

**Continued Public Hearing – Definitive Subdivision Plan, Blanchard Farm Estates - 40 Curtis Street**

**Assessor's Map/Block/Lot 26-1-4, 5, 6B, 7, 9R, 9S, 9T**

**Applicants/Owners: Blanchard Farms, LLC**

**Documents**

- Updated Draft conditions dated 4-14-14 sent to the Board 3/5/14 and to the applicant's representative
- Staff comments to Henderson letter dated 3/12/14
- 4-22-14 email from Pat Brennan of Amory Associates on basin testing
- 4/22/14 draft conditions for Blanchard Farm Estates Definitive Subdivision

Chairman Limbacher opened the continued public hearing at approximately 8:30 pm. John Tedeschi, John Barry, Richard Henderson and Greg Morse were present for the applicant. Chairman Limbacher indicated that since the last meeting, the Board had a site visit to review the approximate limit of clearing for condition 12. Ms. Harbottle indicated that there was also correspondence with the consulting engineer regarding soil testing. Chairman Limbacher indicated that conditions 1-18 were discussed last time and questions on those would be discussed this time. Track changes and comments below the condition reflect what was discussed on 3/13/14.

**DRAFT CONDITIONS  
BLANCHARD FARM ESTATES – 40 CURTIS ST.  
4/23/2014**

Conditions 1 – 18 include changes agreed on at 3/13/2014 public hearing.

New conditions to address erosion & sedimentation control (inadvertently previously omitted) shown in blue type.

New conditions in response to previous discussion shown in bold black type.

**General**

1. All construction shall be according to a plan by Morse Engineering Company, Inc. titled Blanchard Farm Estates Definitive Subdivision Plan in Scituate, Massachusetts, dated October 10, 2013, with revisions through February 13, 2014, with any additional revisions needed to conform to these conditions.
2. Where a Definitive Plan requires approval, permitting or licensing from any local, state or federal agency, this approval, permitting or licensing will be deemed a condition of the Planning Board's approval, including the Planning Board's approval of work in the layout of Curtis Street.

3. Construction shall meet all requirements of the Scituate Subdivision Rules and Regulations dated August 13, 2010 except as specifically waived by the Planning Board. All conditions of approval and waivers granted shall be inscribed on the plan prior to endorsement.
4. The applicant shall complete the construction of all ways and municipal services within three years of the date of endorsement of the Definitive Plan. Failure to so complete shall result in the automatic rescission of the approval of such plan, unless the Board extends said period, for good cause shown, after the written request of the applicant prior to the expiration of said period.
5. The total number of residential dwelling units on the site shall not exceed eleven (11), except for permitted accessory dwellings. No lot in the Definitive Subdivision may be further divided or subdivided to create additional building lots.
6. The applicant shall agree to construct streets and complete all other work specified on the Definitive Plan or required under these Rules and Regulations, meet all relevant provisions of the Scituate Zoning By-Laws and other By-Laws, including installation of all required utilities in such subdivision and off-site, and all work incidental thereto, such as grading of lots to provide drainage, construction of walkways, retaining walls and other details, and installation of water main connecting to Country Way as outlined in Section 7.0 of these Rules and Regulations and as specifically required by the Planning Board, within three years of the date of endorsement of the Definitive Plan.

The applicant shall maintain all streets and utilities within the subdivision with the exception of water service until such time as maintenance is performed by the Homeowners' Association. Until a street within a subdivision is accepted by Town Meeting as a public way, all streets, those portions of drainage systems within the street layout and other improvements within the street layout shall be operated and maintained by the developer or a Homeowners' Association made up of residents of the subdivision or their representatives.

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

*The Board wanted more information about the Homeowner's Association contact person.*

7. The applicant shall grant to the Town of Scituate, a right and easement to construct, repair, replace, extend, operate, use and forever maintain all streets, water mains and the stormwater management system including all surface and subsurface stormwater drains in, through or under the streets and easements as indicated on the Definitive Plan. The above shall not be construed to relieve the applicant, and his successors in title, to the ownership of a portion of the land or any street within the subdivision or the stormwater management system which is generally not accepted by the Town, nor diminish in any way, its responsibility to complete all construction as required by the applicant's agreements with the Town and to thereafter maintain all streets and utilities in satisfactory condition if or when they are accepted by the Town.

An easement shall be provided allowing a Homeowner's Association access to drainage and stormwater management systems which will be privately maintained to allow inspection, maintenance and repair, and allowing the town access in case of an emergency, or to test water quality if this is deemed in the public interest.

8. The applicant shall consent to allow members and employees of the Planning Board and other persons acting under the authority of the Planning Board as its agents, to enter upon any lands and carry out such surveys and inspections as may be deemed necessary, and place

and maintain monuments and marks. As a condition of subdivision approval by the Planning Board, the applicant shall cooperate with the Planning Board and Town officials and assist them in their efforts to verify that the layout, design and construction work in the applicant's subdivision are satisfactory and conform to the Town specifications and the requirements of the Planning Board.

9. Any modification of this Definitive Plan, other than as authorized by G.L. c. 41, s. 81O, shall require modification by the Planning Board in accordance with G.L. c. 41, s. 81W. Failure to comply with this requirement shall result in rescission of the Planning Board's approval.

#### **Required Prior to Endorsement or Recording of Plans**

10. All conditions of approval and waivers granted shall be inscribed upon the definitive plan prior to endorsement.
11. The applicant shall obtain the endorsement of the Planning Board upon the Definitive Plan within 180 days of the date of approval or termination of the appeal period of the Definitive Plan. Failure to obtain such endorsement shall result in the automatic rescission of the approval of such plan.
12. A Covenant or other form of surety as provided in MG.L. c. 41, s. 81U to guarantee construction of the road, drainage improvements and any additional on or off site improvements agreed to by the applicant, shall be provided to the Planning Board prior to endorsement of the Definitive Plan by the owners of record of the land in the subdivision. This Covenant shall run with the land and be binding upon the owner(s) and their successors in interest. Upon approval of the covenant by the Planning Board, reference thereto shall be inscribed upon the plan and which shall be recorded with the covenant at the expense of the applicant. The Town Planner shall assist the applicant to the registry of deeds to ensure documents are recorded and the town is provided recorded copies of decisions, drawings and covenants.

*The applicant was concerned about surety and establishing a bond up front. Ms. Harbottle explained that a covenant is a type of surety. She said surety is required under the Subdivision Control Law prior to endorsement. Attorney Henderson asked if this would be the standard covenant. Ms. Harbottle indicated it would be. The applicant was agreeable to the condition.*

13. In addition to the Covenant normally required to secure the construction of ways and installation of municipal services, the Planning Board shall require, prior to the endorsement of the Definitive Plan, a supplemental covenant containing those conditions of approval that are intended to survive the release of the Statutory Covenant. Such covenant shall be approved as to form by the Planning Board Legal Counsel. Such covenant shall be executed and duly recorded by the owner(s) of record, and shall run with the land. The covenant shall be referenced on the Definitive Plan prior to recording in the Registry of Deeds. The subdivider shall promptly, after recording, send a copy of the covenant, showing book and page number to the Board.
14. The developer shall provide a draft Homeowner's Association Agreement and sufficient funds for review by Town Counsel prior to endorsement of the Definitive Plan. The Homeowners' Association Agreement shall include provision that annual mosquito control measures described be taken as described in the attachment to this decision. Any deviations from the mosquito control shall be approved by the Board of Health and submitted to the Planning Board.

15. To reflect the waiver granted by the Planning Board, prior to endorsement of the Definitive Plan, curbing details shall be modified to show bituminous berm and detail for granite where it is still required. Bituminous concrete berm must reflect loam and seed to the top of the back of the berm. Vertical granite curb detail must be added to plans. 4' transition curb adjacent to the curb inlet must be labelled as granite. Vertical granite curb shall be set and held in place with a 6" depth lift of 4000 PSI concrete with ¾" aggregate on both sides and the bottom of the curb. Limits of vertical granite curb shall be shown on the plans.
16. The limit of erosion control shall be the limit of work. Siltation fence shall be placed at the limit of grading on the east side of Lots 2 – 5. This statement and the additional fence shall be added to the plan as a note prior to endorsement. (HOLD)

*Mr. Morse indicated that he didn't feel erosion control was necessary. Chairman Limbacher said the area was mostly brambles and this is the high point of the site. It was agreed that the limit of work will be staked in the field and if erosion control is needed during construction it will be installed.*

17. Detail and plan view of the temporary sediment basin shall be added to the plans prior to endorsement. The Erosion and Sedimentation Control Plan shall be modified in accordance with the Subdivision Regulations Section 6.3.3.7. A narrative must be provided and a sequence of construction must be noted on the plans. Dust control measures, temporary staging area, temporary stockpile area for stumps, stockpile areas for soils, length of time areas are exposed and limit of work must be addressed per the regulations.

*Ms. Harbottle said this added condition is required of all applicants. There was no further discussion.*

18. Prior to endorsement, the stabilized construction entrance detail shall be revised to be composed of 12" deep of 4" – 6" crushed stone with radii to accommodate construction vehicles. It shall be required to be maintained throughout construction to prevent sediment from being tracked or flowing into the public right-of-way. Additional erosion control, such as silt fence and/or haybales placed prior to a precipitation event, may be needed to prevent sediment from reaching the road, adjacent properties or wetland resources during construction.

### **Required Prior to Pre-Construction Conference**

19. Following endorsement, the Board shall, within six (6) months of such approval, file such plan with the Plymouth County Registry of Deeds, and shall transmit prints of the endorsed plan to the appropriate Town Boards and Commissions. The Board will not file such plan, however, until it has received from the applicant two certified checks, one in an amount sufficient to obtain one (1) mylar reproducible and ten (10) prints of each sheet thereof, and one in an amount sufficient to cover the costs of the filing of such plan with the Registry of Deeds. All plans in the Definitive Drawing set must be recorded at the Registry of Deeds. The Site Distance Plan and Site Cross Section Plan both dated December 20, 2013 by Morse Engineering Co., Inc. shall be incorporated into the Definitive Subdivision Drawing set.

*The applicant said they would like control over recording. Ms. Harbottle said the regulations require the Board. Attorney Henderson said he has no problem providing the copies as long as the applicant has control. Mr. Pritchard said the regulations need to be met. It was decided to change the wording to correspond with condition 12 and for Ms. Harbottle and Attorney Henderson to agree to the exact wording.*

20. Prior to the pre-construction conference, the applicant shall provide the Planning Board with a copy of the Definitive Plan on disk in CAD (.dwg format), and two copies of the endorsed plans with recording information.
21. Prior to the pre-construction conference, the following must be provided to the Planning Board:
  - a. Copies of the NPDES Permit including its Stormwater Pollution Prevention Plan,
  - b. A check to cover cost of inspections by the Town's consulting engineer. The amount shall be provided by the Planning Department.
  - c. A construction schedule including approximate dates for items in the Subdivision Rules and Regulations 9.1.3, construction of the looped water main through to Country Way, installation of traffic data recorders as defined in paragraph 24 hereof on Curtis St. and Country Way and painting of the crosswalk on Curtis St.

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

22. A pre-construction conference shall be held with the applicants, their representatives, their engineer, the site contractor(s), the Town Planner the Planning Board's consulting engineer and other representatives of the Town as the Board feels are necessary. A pre-construction conference will not be scheduled until items listed in Condition 21 are provided. A list of all contractor contacts, including names and telephone numbers, shall be provided to the Planning Board and DPW. At least one telephone contact shall be available 24 hours per day in the event of an emergency.
23. Prior to the start of construction, a street sign shall be erected with a street name approved by the Police Dept. and Planning Board.
24. Prior to the start of construction, the applicant shall install two 30" x 42" SC-15 "YOUR SPEED" Radar Driver Feedback Signs distributed by Signal Services (1-860-289-8033.) The sign appearance should match that of the sign installed on Gannett Road with amber LED light with white sign face. Solar Panels to power the lights shall be installed based upon sign location with 55AH batteries. Schedule & Traffic Analyzer, Device manager shall be used with Blue tooth Communication (USB Bluetooth Module.) Specific locations shall be determined in the field based upon unobstructed southerly exposure for the solar panel to operate efficiently.

*The applicant would like to provide this prior to the 5<sup>th</sup> lot release. Ms. Harbottle indicated there could be a problem with that and the signs were desired to be in place during construction. Mr. Barry indicated there was a 6 week lead time until the signs come after ordering and the company needs to review the solar orientation. Ms. Harbottle said that there is a 3 week appeal period after the decision is filed and then endorsement. She suggested they be installed 3 months after the preconstruction conference. Mr. Tedeschi said there needs to be a public hearing and the locations aren't finalized. Ms. Harbottle said the Town wants one by the Egypt Garage and one by the Egypt store. Mr. Pritchard suggested they be installed as expeditiously as possible. Mr. Tedeschi said they could escrow the funds. Attorney Mike Hayes suggested they could be tied to occupancy permits. Mr. Barry suggested that 3 months after the locations are designated and approved by the Town would be acceptable to him.*

### **Required During Construction**

25. 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 Sundays or legal holidays.
26. All earth operations shall only occur while erosion and sedimentation control measures 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.
27. Except for clearing, grubbing, road construction and paving, the subdivision road shall be kept clear and passable at all times. No equipment shall be parked or stored so as to render the street impassable. No portion of the subdivision road or cul-de-sac shall be used as a staging area. No parking or unloading on Curtis St. shall be permitted during construction.
28. Inspections and observations made according to the Stormwater Pollution Prevention Plan (SWPPP) shall be submitted to the Board and Board's consulting engineer within 48 hours of the inspections. The Board reserves the right to have the consulting engineer visit the site weekly during times when required construction inspections are further apart.

*The applicant indicated that it seems like added paperwork. Ms. Harbottle said this is going to be asked of everyone due to the concerns over erosion and sedimentation. She said it should help prevent complaints of the abutters and protect the applicant. The applicant said sending it to the consulting engineer will drive up costs. It was agreed that the reports would be sent to the consulting engineer when there was a problem and the report would be provided to the Board within 48 hours after the inspection.*

29. A test hole, witnessed by the Planning Board's consulting engineer, shall be excavated during construction to verify that the proposed four feet of separation from the seasonal high groundwater will be provided at the infiltration structure adjacent to Curtis St. to verify compliance ~~all infiltration structures to be in compliance~~ with DEP Stormwater Management Standards. Results shall be furnished to the consulting engineer who shall verify compliance. If there is less than 4' of vertical separation, a mounding analysis may be required.

- ~~29.~~30. Test holes shall be excavated at each of the roof infiltration systems to verify that three feet of separation from seasonal high groundwater will be provided at each infiltration system in accordance with Zoning Bylaw Section 520.6. D. 3.

*The applicant says there are many existing test pits already done for the site for design of the septic system and they would like to use those if the drywells are within 25 feet of a test pit. They indicated they are not taking infiltration credit for the drywells and that the drywells are not needed as they are reducing the runoff from the site without them. They said the change in groundwater across the site is about 1.5 feet and the site is a fill site. The Board agreed to the 25 feet.*

- ~~30.~~31. Test holes shall be performed by a MassDEP certified Soil Evaluator and witnessed by the Planning Board's consulting engineer. Results shall be submitted to the Board.

- ~~31.~~32. Prior to clearing of trees outside the limit of grading/erosion control, an on-site meeting shall be held with the Town Planner or her designee and subsequent approval obtained. All material proposed to be cleared shall be clearly marked in the field prior to this meeting. The 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 days prior to construction.

~~32.~~33. Every effort shall be made to save and transplant the large rhododendron at the entry of the site. Town Planner shall be provided new location of rhododendron prior to its removal. Should the rhododendron not survive prior to the time of as-built acceptance, the applicant shall plant a new one of minimum size 5 – 6 feet height on site.

*The applicant does not want to replace the rhododendron if it dies as they say they are providing substantial new planting. Mr. Vogel said the rhododendron has been there for a long time. The Board decided there was no significance to the new rhododendron so that part of the condition could be struck.*

~~33.~~34. Construction of the proposed subdivision road and proposed drainage system shall be supervised by a registered professional engineer who shall certify in writing to the Planning Board and DPW at completion that the proposed subdivision roads and drainage system were constructed in accordance with the approved plans

~~34.~~35. This certification shall be accompanied by as-built plans, signed and stamped by a professional land surveyor and the supervising professional engineer. Prior to issuance of an occupancy permit, a registered professional engineer shall inspect the lot and certify with his signature and stamp to the Planning Board and Building Commissioner that the grading conforms to that shown on the approved plan.

*Mr. Morse said this was a hard condition to comply with as any change in grade would affect the certification. Ms. Harbottle said that the purpose is so that the grading and drainage assumptions are compliant with the design. Mr. Vogel said that an architect could change the house design so that it would vary from the plan and the grading. Ms. Harbottle said that the condition is meant to protect against dramatic changes. She said the functions of the stormwater management system or the flows to abutting properties cannot be altered. It was decided that the variation in grade must be non-significant and not change the drainage calculations, the function of the stormwater system or the rate or volume of runoff onto abutting properties.*

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

~~35.~~36. The applicant must provide evidence that documents establishing the Homeowner's Association have been recorded prior to application for the first building permit.

~~36.~~37. The applicant shall pursue the Traffic Rules Committee's and Board of Selectmen's approval of a crosswalk and connection from the subdivision sidewalk to the crosswalk. If approved, the crosswalk and connection shall be completed prior to application for the first occupancy permit, or funds shall be provided to the DPW to cover the cost of completion.

~~37.~~38. Prior to application for building permits, drainage easements shall be identified by stakes no less than 25' apart with bright colored surveyor's tape used to flag the stakes.

~~38.~~39. Interim As-Built Plans shall be prepared for all drainage or detention basins, rain gardens and infiltration structures and the roadway system, and provided to the Planning Board for approval before any building permits for new structures or buildings are issued.

Interim As-Built Plans shall confirm that the roadway and drainage basins are properly constructed, **fully vegetated**, located in the approved location and properly sized, so that the required storage capacity is available and no upland necessary for adjacent lots has been used. The location of the drainage basin and all drainage easements shall be confirmed by setting a minimum of two bounds and shall be tied to at least two bounds of the subdivision

way and to the Mass. State Plane coordinate system. As-Built Plans shall be signed and stamped by a Registered Professional Engineer and Professional Land Surveyor.

*The applicant objected to fully vegetated. Stabilized was agreed upon.*

### **Prior to Application for Occupancy Permits**

39.40. Prior to application for occupancy permits, septic system grading will be reviewed with the Board of Health to make sure it conforms with the approved plans and to assure that the septic system will not interfere with drainage either within the development or onto abutting properties.

### **Acceptance of Street as a Town way**

40.41. Approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of the streets shown on the Plan.

41.42. Prior to a request for street acceptance, the Planning Board shall request its engineer to make an inspection of the street to determine whether or not it should recommend to the Board of Selectmen, the laying out of said street as a public way. If the recommendation is in the affirmative, the Planning Board shall so advise the Selectmen forthwith.

*It was decided that this condition should be eliminated.*

42.43. The Town may assess betterments for any work needed to make such streets conform to Town standards prior to acceptance thereof as Town ways.

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

*It was decided that this condition should be eliminated.*

### **Ongoing**

43.44. ~~The applicant has represented to the Planning Board that there shall be no increase in the rate or volume of stormwater flowing onto abutting properties and therefore, does not require any easements for drainage onto the abutting properties. If necessary, the applicant shall obtain and record appropriate easements for drainage onto abutting properties, with a copy provided to the Planning Board. If drainage onto abutting properties exceeds that indicated by the applicant's drainage calculations, the Planning Board may require the applicant to obtain and record appropriate easements for drainage onto abutting properties, with a copy provided to the Planning Board.~~

*The applicant indicates that this condition violates Massachusetts Law as a condition cannot be imposed that is beyond someone's control. Attorney Henderson said that if water goes onto other properties, they can get injunctive relief. Mr. Pritchard said that the applicant would need to remedy the situation on their own property. Ms. Harbottle said the condition was designed to protect abutters. It was determined the condition would be eliminated.*

44.45. A certification of compliance with the O & M Plan shall be provided to the Planning Board on January 31 of every calendar year.

Mr. Taylor moved to approve the Definitive Subdivision Plan of Blanchard Farm Estates at 40 Curtis Street based on the following criteria:

1. Completeness and technical adequacy of all submissions;
2. Determination that development at this location does not entail unwarranted hazard to safety, health and convenience of future residents of the development or of others;
3. Conformity with the requirements of Section 6.0 and 7.0 of the Town of Scituate Subdivision Rules and Regulations, except as specifically waived by the Planning Board and the Zoning Bylaw;
4. Determination that the subdivision as designed will not cause substantial and irreversible damage to the environment, which damage could be avoided or ameliorated through an alternative development plan.

And subject to the conditions as discussed on 3/13/14 and 4/24/14 and waivers previously voted upon (wherever a condition refers to "the applicant" this shall include his successors or assigns as applicable): Mr. Pritchard seconded the motion. Motion was unanimously approved with members Limbacher, Pritchard, Taylor, Vogel and Greene voting in favor.

Mr. Taylor moved to close the public hearing for the Definitive Subdivision Plan of Blanchard Farm Estates at 40 Curtis Street. Mr. Pritchard seconded the motion. Motion was unanimously approved.

**Continued Public Hearing and Scenic Road Public Hearing – 305 Country Way  
Flexible Open Space Special Permit & Definitive Subdivision Plan & Scenic Road  
Assessor's Map/Block/Lot 37-2-2 & 37-8-13R  
Applicants/Owners: Douglas Sheerin/Kristen DeGaravilla**

**Documents**

- 4/18/14 305 Country Way Final Decision on the matter of William Krusell, voluntarily withdrawn
- Draft special permit and subdivision conditions dated 3/7/14
- Email dated 3/13/14 from Greg Morse on draft conditions with comments on two additional conditions
- 4/24/14 email from Sean McCarthy on Stormceptors
- 4/24/14 draft conditions for Definitive Subdivision Plan and 4/22/14 draft conditions for Flexible Open Space Special Permit

The chair opened the continued public hearing at approximately 9:15 pm. Greg Morse, Mike Hayes and Doug Sheerin were present for the applicant. Mr. Morse indicated that since the last hearing session, the abutter has withdrawn his appeal from DEP. Chairman Limbacher started with Condition 19 as the other conditions were previously agreed upon.

**GENERAL**

1. All construction shall be according to a plan by Morse Engineering Co., Inc. titled White Ash Farm, A Definitive Flexible Open Space Development Plan, dated February 19, 2013, revised through December 4, 2013, stamped by William McGovern PLS on December 23, 2013, and with any additional revisions as needed to conform to these conditions.
2. Construction shall meet all requirements of the Fire Department, the Building Department, the Board of Health, the Conservation Commission, Massachusetts DEP, the State Building Code, and all applicable federal, state and local laws and regulations.

3. Installation of all water mains and appurtenances shall be performed according to the specifications of the Scituate DPW.
4. The total number of residential dwelling units on the site shall not exceed three (3.) There shall be no further division or subdivision of any lot shown on the plan for the purpose of construction of an additional dwelling.
5. Access to all lots shall be over the proposed subdivision road. There shall be no further extensions of the road or attachments of any other roads or Common Driveways to the proposed subdivision road.
6. The drainage system shall be maintained according to the Long Term Operation & Maintenance Plan, Best Management Practices by Morse Engineering Co., Inc. dated February 19, 2013 with revisions through July 11, 2013 and as revised to incorporate comments by the Town's consulting engineer John Chessia, PE of Chessia Consulting Services LLC with any additional revisions as needed to conform to these conditions.
7. Prior to installation of an entrance sign, a sketch showing dimensions, location, materials and color shall be approved by the Town Planner.

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

8. All remaining comments by the consulting engineer shall be addressed prior to endorsement of the Definitive Plan, including revisions to the Long Term Operation & Maintenance Plan, Best Management Practices by Morse Engineering Co., Inc. dated February 19, 2013 with revisions through July 11, 2013.
9. To reflect the waivers granted by the Planning Board, prior to endorsement of the Definitive Plan, curbing details shall be modified to show bituminous berm and detail for granite where it is still required. Bituminous concrete berm must reflect loam and seed to the top of the back of the berm. Vertical granite curb detail must be added to plans. 4' transition curb adjacent to the curb inlet must be labelled as granite. Vertical granite curb shall be set and held in place with a 6" depth lift of 4,000 PSI concrete with  $\frac{3}{4}$ " aggregate on both sides and the bottom of the curb. Limits of vertical granite curb shall be shown on the plans.
10. To reflect the road width and other items which do not meet the standard of the Subdivision Rules and Regulations, a note shall be added to the Lot Layout Plan stating "The subdivision road does not meet the standards of the Subdivision Rules and Regulations and shall remain private in perpetuity."
11. The applicant shall provide an Easement Plan as an additional plan sheet. This shall be provided to the Planning Board a minimum of three weeks prior to endorsement of the Definitive Plan. The purpose and dimensions of all easements, as described below, shall be clearly shown on the Easement Plan, which shall include the following easements:
  - a. An easement to allow a Homeowner's Association and/or its designee access to maintain, inspect and repair the stormwater management system, sight distance easement, fencing, signs and common area plantings, and to allow the Town access to the detention basin in case of an emergency. This shall include an easement for access to the detention basin of a minimum width of 20' which shall allow vehicle access from the end of the subdivision road across Lot 3.
  - b. An easement to allow the Town of Scituate the right to repair, replace, operate, use and maintain all streets, water mains, and all surface and subsurface stormwater drains in, through and under the streets and easement, allowing the town access in case of an

emergency, and allowing the DPW to test water quality if this is deemed in the public interest.

- c. An easement over Lot 1 in the area shown on the plan, to provide a safe sight triangle which shall be kept clear of obstructions as shown on the plan including vegetation in order to maintain adequate sight distance along Country Way to the south.
12. Prior to endorsement of the Definitive Plan, a note shall be added to the Erosion & Sedimentation Plan stating that construction shall proceed in two phases, the first including clearing for the road, detention basin, staging areas and temporary sediment basin; the second, for homes as they are built. This will help prevent sediment affecting the water quality of the tributary to the reservoir and protect other wetlands resources.
  13. The boundary of the 150' buffer to the Tributary to the Reservoir shall be protected by installation of staked siltsock, the stakes flagged with bright surveyor's tape. This buffer protection shall be maintained until all work is complete.
  14. The Landscape Plan shall be revised to include the following and shall be provided to the Planning Board a minimum of two weeks prior to endorsement of the Definitive Plan:
    - a. All easements described in Condition 11 above with their purpose, boundaries, dimensions and improvements.
    - b. 3' high PVC split rail fence from the location near the entrance to the subdivision shown on the Landscape Plan to the back property line of Lot 3 at the limit of clearing, with shrubs as identified on the plan, located on the open space side with minor gaps, but fairly continuously behind the fence. The plan and detail shall show the fence located 5' off the subdivision road. A note shall be added to the plan stating that the Town Planner shall approve the number, type and locations of shrubs prior to planting in the field.
    - c. Two freestanding signs, one on the north side of the subdivision road at the end of the stone wall and the second at the beginning of the cul-de-sac describing the purpose of the tributary buffer, limitations on public access and the reasons for same. The sign shall be white with dark green lettering, constructed of a durable, weatherproof material, a minimum of 1 sq. ft. in area and 4' in height. Wording shall be approved by the Town Planner. 5" X 5" square signs shall be affixed to the PVC fence at intervals not to exceed 60 feet stating "Conservation Area / No Disturb Zone."
    - d. A planting plan fully specifying seed mixes and species of shrubs and trees.
    - e. Concrete bounds on or about 50' apart shall be installed at the beginning and end points along the property line between Lot 3 and the Drainage Parcel. The bounds shall extend 4" above grade.
    - f. Notes shall be added to the plan stating:
      - a. *The developer agrees to provide the owners of Lots 37-2-1, 43-1-15A and 43-1-14A and 43-1-14B up to six arborvitae to each of the owners for screening along the boundary of the development. If requested by the owner, alternative shrubs such as rhododendron, laurel, holly, forsythia, inkberry or similar shrubs shall be provided. Shrubs shall be provided prior to the approval of As-Built plans by the Planning Board.*
      - b. Prior to the start of construction, the applicant or contractor shall identify healthy trees shown on the Landscape Plan between the boundary of the abutting lots to the

southeast and the limit of work shown on the Landscape Plan. These trees shall be preserved unless determined to be diseased or dangerous by a certified arborist after field verification.

- c. Light fixtures, if any, shall preferably be of an "antique" style, with the fixture shielded, and not to exceed 14' in height.
15. A deed restriction establishing the Sight Distance Easement on Lot 1, and prohibiting any structure, installation or activity which would interfere with visibility between 2 ½ and 6' above ground, shall be drafted and a copy provided to the Planning Board with a check sufficient to cover review by Town Counsel. This shall be recorded with the subdivision covenants and plans.
  16. The Homeowners Association Declaration of Trust shall be amended to include the following items, and shall be provided to the Planning Board no less than ten business days prior to endorsement of the Definitive Plan:
    - a. A statement that homeowners are encouraged to use organic pesticides, herbicides and fertilizers. These may be found through the Northeast Organic Farming Association (NOFA) list of certified landscape professionals, available on the website <http://nofa.organiclandcare.net/aolcp-search> or similar. Pesticides and herbicides shall be used sparingly and as directed. If professional application is used, pesticides shall be applied by a professional applicator licensed under the Massachusetts Department of Agriculture. Fertilizers, herbicides, pesticides and hazardous materials should be stored inside, on an impervious surface, in quantities no greater than necessary for household use. Where outside storage is necessary, covered containers must be used.
    - b. A requirement that the Homeowners' Association maintain the Sight Distance Easement on Lot 1 by checking the condition each summer and removing all vegetation between 2 ½ and 6' in height with proof of maintenance provided to the Planning Board each year by October 1.
    - c. A requirement that the Homeowners' Association permanently maintain the fence on the north side of the subdivision road, entrance landscaping, bounds shown on the Definitive Plan and the signs described in Condition 14 c above.
    - d. The Homeowners Association Declaration of Trust shall establish an area for snow storage, not in the no disturb area, which shall not impact the stormwater management system, the Open Space Parcel, or interfere with sightlines for vehicles exiting driveways or the subdivision with the location approved by the Town Planner, and shall require that this be used for this purpose.
  17. This approval is subject to the applicant consulting with the Board of Selectmen regarding their desire to accept the permanently protected open space shown on the plan in the care and custody of the Conservation Commission for protection of the Zone A to a Tributary to the Town Reservoir. This consultation shall occur prior to the endorsement of the Definitive Plan.
  18. A copy of the revised Definitive Flexible Open Space Development Plan shall be provided to the Planning Board a minimum of ten business days before expected endorsement of the Definitive Plan.
  19. Based on the delineation of the watershed of the drainage area and using Stormceptor propriety software, the applicant shall provide a determination of the size of a Stormceptor or approved equivalent stormwater treatment installed in the Town's drainage system ~~to replacesouth of~~ the existing catchbasins between 310 and 318 Country Way, and at 320 Country Way, at

approximately 320/324 Country Way to the DPW and Planning Board, and shall obtain approval of the DPW-Planning Board for the proposed size.

Mr. Morse said this condition was not discussed in the public hearing. He said the applicant noticed an accumulation of sand and they proposed to install hoods in 2 catchbasins. Mr. Morse said that DPW has proposed a stormceptor which costs \$15,000 - \$20,000 for offsite mitigation. He said the project provides no flow into the catch basin and the project does not impair the water quality. He said it seems expensive and it was not a public benefit that the applicant was counting on as he is already giving open space to the Town. The Board discussed the difference between a hood and a stormceptor. It was indicated that a hood costs a couple hundred dollars and it collects oil and grease for just the catch basin area. A stormceptor would be much more expensive and it would improve the discharge to the tributary for a large area. Ms. Harbottle indicated that the property being donated is largely unbuildable as it is in the 150' buffer of the tributary or is wetlands and additional public benefit has been discussed to improve the discharge to the tributary. Mr. Sheerin said he would give \$10,000 for a stormceptor, but not an open checkbook. Steve Bjorklund said that the DPW won't come up with the funds to install it and Mr. Sheerin shouldn't be made to clean up the water for the Town. He said the bylaw talks about open space and this is only a 3 lot subdivision and one house previously existed. Ms. Harbottle said that she can work with DPW on this. Mr. Pritchard and Chairman Limbacher both said they didn't want the money spent elsewhere. Ms. Harbottle suggested if it is not used within 5 years it is returned to the applicant. All agreed.

20. The applicant shall obtain the aApproval of the Board of Selectmen ~~shall be obtained~~ for installing a Stormceptor or approved equivalent in Country Way in the above location.

It was agreed to eliminate condition 20.

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

21. Following endorsement, the Board shall, within six (6) months of such approval, file such plan with the Plymouth County Registry of Deeds, and shall transmit prints of the endorsed plan to the appropriate Town Boards and Commissions. The Board will not file such plan, however, until it has received from the applicant two certified checks, one in an amount sufficient to obtain one (1) mylar reproducible and ten (10) prints of each sheet thereof, and one in an amount sufficient to cover the costs of the filing of such plan with the Registry of Deeds. All plans in the Definitive Drawing set must be recorded at the Registry of Deeds.

This condition is to be the same as 40 Curtis Street with the applicant recording.

22. Prior to scheduling the pre-construction conference, the following must be provided to the Planning Board:
- a. Copies of the NPDES Permit and Stormwater Pollution Prevention Plan.
  - b. A check to cover the cost of inspections and review of Interim and Final As-Built Plans by the Town's consulting engineer.
  - c. A copy of a recorded deed restriction stating that no lot in the Flexible Open Space Development may be further divided or subdivided into additional building lots.
  - d. Construction schedule including approximate dates for items in Subdivision Rules and Regulations 9.1.3.

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

23. A pre-construction conference shall be held with the applicants, their representatives, their engineer, the site contractor(s), the Town Planner, the Planning Board's consulting engineer, Conservation Agent and other representatives of the Town as the Board feels are necessary. A preconstruction conference will not be scheduled until all items required under Condition ~~16-22~~ have been submitted. A list of all contractor contacts, including names and telephone numbers, shall be provided to the Planning Board and DPW. At least one ~~telephone contact~~contractor shall be available 24 hours per day in the event of an emergency.
24. Prior to the start of construction, the limit of clearing and the boundary of the 150' tributary buffer shall be staked in the field under direction of a surveyor, ~~and reviewed by the Town's consulting engineer.~~ A silt fence with silt sock, NOT straw wattle, shall be used to delineate the entire length of the buffer during construction. The fence shall include 5' posts every ten to fifteen feet with bright construction tape strung between them through the length of the barrier. The location and method of staking reviewed by the Town's consulting engineer prior to the start of construction.
25. Prior to the start of construction, the applicant or contractor shall identify healthy trees shown on the Landscape Plan between the boundary of the abutting lots to the southeast and the limit of work shown on the Landscape Plan. These trees shall be preserved unless determined to be diseased or dangerous by the Town Planner after field verification.

#### REQUIRED DURING CONSTRUCTION

26. 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 Sundays or legal holidays.
27. All earth moving operations shall only occur while erosion and sedimentation control measures approved by the Town Planner after consultation with the Conservation Agent, 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.
28. The applicant shall install a~~A~~ **Stormceptor or equivalent of a size and type approved by the DPW Planning Board, complete with frame and cover, shall be installed south of the existing catchbasins between 310 and 318 Country Way, and at 320 Country Way in the location of the catchbasin at 320/324 Country Way.**

It was agreed that condition 28 would be eliminated as it was already covered.

29. Interim As-Built Plans shall be prepared for all drainage or detention basins, rain gardens and infiltration structures and the roadway system, and provided to the Planning Board for review and approval before any building permits for new structures or buildings are issued.

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

#### REQUIRED PRIOR TO APPLICATION FOR THE FIRST BUILDING PERMIT

30. The signs described in Condition 14~~bc~~ above shall be installed prior to application for the first building permit.

31. A copy of a deed conveying the property identified on the Lot Layout Plan as Open Space to the Town of Scituate in the care and custody of the Conservation Commission shall be provided to the Planning Board prior to application for the first building permit.
32. Prior to application for building permits, septic system grading will be reviewed with the Board of Health, to assure septic systems will not interfere with drainage either within the development or onto abutting properties.

#### **REQUIRED PRIOR TO APPLICATION FOR THE FIRST OCCUPANCY PERMIT**

33. The developer shall notify contractors, builders and real estate agents that membership in a Homeowners' Association is required to be disclosed to all prospective buyers, and shall make copies of the Homeowner's Association Declaration of Trust available to be provided to all prospective purchasers of lots in the development.
34. The developer shall provide one hour of instruction by a professional engineer to each of the first purchasers of new homes in the development about their responsibilities for maintaining the stormwater management system under the Homeowners Association Declaration of Trust ~~by a professional engineer~~.

#### **ADMINISTRATION**

35. All time periods referenced in this document for completion of conditions shall be tolled in case any appeals are taken.
36. This Special Permit shall be void if it is not recorded at the Registry of Deeds within 45 days of expiration of the appeal period following approval of this Special Permit. The Applicant shall provide proof that the Special Permit was recorded to the Planning Board.
37. Within three months of the date of recording, copies of the approved Definitive Flexible Open Space Development Plan, the special permit, the Homeowners Association Declaration of Trust shall be provided to the Planning Board.
38. 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.
- 38:39. All plan sheets of the Flexible Open Space Development Definitive Plan shall be recorded at the Registry of Deeds.

Mr. Taylor moved Based on the Findings of Fact, that the Planning Board approve the Flexible Open Space Development Special Permit for 305 Country Way with the following conditions as discussed on 3/13/14 and 4/24/14. Mr. Vogel seconded the motion. Motion was approved 4-0 with members Limbacher, Pritchard, Taylor and Vogel voting in favor.

#### **DRAFT CONDITIONS, 305 COUNTRY WAY DEFINITIVE PLAN 4/24/2014**

##### **GENERAL**

1. All construction shall be according to a plan titled White Ash Farm, A Definitive Flexible Open Space Development Plan, dated February 19, 2013, revised through December 4, 2013, stamped by William McGovern PLS on December 23, 2013, and as further revised to include conditions of the Flexible Open Space Development Special Permit approved by the Planning Board.

2. Where a Definitive Plan requires approval, permitting or licensing from any local, state or federal agency, this approval, permitting or licensing will be deemed a condition of the Planning Board's approval, including the Planning Board's approval of work in the layout of **Country Way**, a Scenic Road.
3. The total number of residential dwelling units on the site shall not exceed three (3). No lot in the Flexible Open Space Definitive Subdivision may be further divided or subdivided into additional building lots.
4. Construction shall meet all requirements of the Scituate Subdivision Rules and Regulations dated August 13, 2010 except as specifically waived by the Planning Board or otherwise conditioned in the Special Permit for the Flexible Open Space Development, and shall comply in all respects with the Scituate Zoning Bylaw. All conditions of approval and waivers granted shall be inscribed on the plan prior to endorsement.
5. The applicant shall complete the construction of all ways, the stormwater management system, municipal services and requirements of this decision and the related Flexible Open Space Development Special Permit within three years of the date of endorsement of the Definitive Plan. This shall include installation of all required utilities in such subdivision, and all work incidental thereto, such as construction of the infiltration basin, grading of lots to provide drainage, construction of swales, landscaping and other details. Failure to so complete shall result in the automatic rescission of the approval of such plan, unless the Board extends said period, for good cause shown, after the written request of the applicant prior to the expiration of said period.
6. The applicant shall maintain all streets and utilities within the subdivision, with the exception of water service until such time as maintenance is performed by the Homeowner's Association. All streets, those portions of drainage systems within the street layout, and other improvements within the street layout and agreed to by the applicant, such as signage, fencing, landscaping and a sight distance easement, shall be operated and maintained by the developer or a Homeowner's Association made up of the residents of the subdivision or their representatives.
7. The stormwater management system be maintained according to the Long Term Operation & Maintenance Plan, Best Management Practices by Morse Engineering Co., Inc. dated February 19, 2013 with revisions through July 11, 2013 and as revised to incorporate comments by the Town's consulting engineer John Chessia, PE of Chessia Consulting Services LLC, which shall be included among the homeowners' responsibilities in the Homeowners' Association Agreement.
8. The applicant shall grant to the Town of Scituate, a right and easement to construct, repair, replace, extend, operate, use and forever maintain all streets, water mains and the stormwater management system including all surface and subsurface stormwater drains in, through or under the streets and easements as indicated on the Definitive Plan. The above shall not be construed to relieve the applicant, and his successors in title, to the ownership of a portion of the land or any street within the subdivision or the stormwater management system which is generally not accepted by the Town, nor diminish in any way, its responsibility to complete all construction as required by the applicant's agreements with the Town and to thereafter maintain all streets and utilities in satisfactory condition until they are accepted by the Town.
9. The applicant shall consent to allow members and employees of the Planning Board and other persons acting under the authority of the Planning Board as its agents, to enter upon any lands and carry out such surveys and inspections as may be deemed necessary, and place and maintain monuments and marks. As a condition of subdivision approval by the Planning Board, the applicant shall cooperate with the Planning Board and Town officials and assist them in their efforts to verify that the layout, design and construction work in his subdivision are satisfactory and conform to the Town specifications and the requirements of the Planning Board.

10. Any modification of this Definitive Plan, other than as authorized by G.L. c. 41, s. 81O, shall require modification by the Planning Board in accordance with G.L. c. 41, s. 81W. Failure to comply with this requirement shall result in rescission of the Planning Board's approval.

#### **REQUIRED PRIOR TO ENDORSEMENT OR RECORDING OF PLANS**

11. All remaining comments by the consulting engineer shall be addressed prior to endorsement of the Definitive Plan, including revisions to the Long Term Operation & Maintenance Plan, Best Management Practices by Morse Engineering Co., Inc. dated February 19, 2013 with revisions through July 11, 2013.
12. The following requirements of Section 6.3.4 of the Subdivision Rules and Regulations shall be added to the Homeowner's Association Declaration of Trust:
  - e. A requirement that the Homeowner's Association report the results of inspections no less frequently than once per year, and provide a description of maintenance to the Board and Department of Public Works within thirty (30) days after any maintenance has been performed. The Board may require that inspections or maintenance be performed at specific times of the year when they are expected to be most effective.
    - i. That the contract for maintenance be provided to the Planning Board within one month of formation of the Homeowners' Association, and that evidence that an amount equal to one year's maintenance costs is maintained in an account, be provided to the Planning Board by January 1 of each year, to ensure the continued operation and maintenance of drainage and other common facilities.
13. To reflect the waiver granted by the Planning Board, prior to endorsement of the Definitive Plan, curbing details shall be modified to show bituminous berm and detail for granite where it is still required. Bituminous concrete berm must reflect loam and seed to the top of the back of the berm. Vertical granite curb detail must be added to plans. 4' transition curb adjacent to the curb inlet must be labelled as granite. Vertical granite curb shall be set and held in place with a 6" depth lift of **4000 PSI concrete with ¾" aggregate** on both sides and the bottom of the curb. Limits of vertical granite curb shall be shown on the plans.
14. To reflect the road width and other items which do not meet the standard of the Subdivision Rules and Regulations, a note shall be added to the Lot Layout Plan stating "The subdivision road does not meet the standards of the Subdivision Rules and Regulations and shall remain private in perpetuity."
15. As required by the Subdivision Rules and Regulations Section 6.3.3. 8., the applicant shall provide the Planning Board a separate Easement Plan as an additional plan sheet, which shall meet the requirements of this Section and include the easements required by the Flexible Open Space Development Special Permit Condition.
16. The applicant shall obtain the endorsement of the Planning Board upon the Definitive Plan within 180 days of the date of approval or termination of the appeal period of the Special Permit. Failure to obtain such endorsement shall result in the automatic rescission of the approval of such plan.
17. A Covenant or other form of surety as provided in MG.L. c. 41, s. 81U to guarantee construction of the road, drainage improvements and any additional on or off site improvements agreed to by the applicant, shall be provided to the Planning Board prior to endorsement of the Definitive Plan by the owners of record of the land in the subdivision. This Covenant shall run with the land and be binding upon the owner(s) and their successors in interest. Upon approval of the covenant by the Planning Board, reference thereto shall be inscribed upon the plan and it shall be recorded with the covenant at the expense of the applicant.

18. In addition to the Covenant normally required to secure the construction of ways and installation of municipal services, the Planning Board shall require, prior to the endorsement of the Definitive Plan, a supplemental covenant containing those conditions of approval that are intended to survive the release of the Statutory Covenant, including conditions of the Flexible Open Space Development special permit. Such covenant shall be approved as to form by the Planning Board Legal Counsel. Such covenant shall be executed and duly recorded by the owner(s) of record, and shall run with the land. The covenant shall be referenced on the Definitive Plan prior to recordation in the Registry of Deeds.

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

19. Following endorsement, the Board shall, within six (6) months of such approval, file such plan with the Plymouth County Registry of Deeds, and shall transmit prints of the endorsed plan to the appropriate Town Boards and Commissions. The Covenant, Supplemental Covenant and Sight Distance Restriction shall be recorded at the same time. The Board will not file such plan, however, until it has received from the applicant two certified checks, one in an amount sufficient to obtain one (1) mylar reproducible and ten (10) prints of each sheet thereof, and one in an amount sufficient to cover the costs of the filing of such plan and documents with the Registry of Deeds. The Town Planner or her designee shall accompany the applicant to the registry of deeds to ensure documents are recorded and the town is provided recorded copies of decisions, drawings and covenants.

*The Board agreed that this condition should be the same as Blanchard Farm Estates.*

#### **DURING CONSTRUCTION**

20. All earth operations shall only occur while erosion and sedimentation control measures 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.
21. Except for clearing, grubbing, road construction and paving, the subdivision road shall be kept clear and passable at all times. No equipment shall be parked or stored so as to render the street impassable. No portion of the subdivision road or turnaround shall be used as a staging area. No parking or unloading on Country Way shall be permitted during construction.
22. Construction of the proposed subdivision road and proposed drainage system shall be supervised by a registered professional engineer who shall certify in writing to the Planning Board and DPW at completion that the proposed subdivision roads and drainage system were constructed in accordance with the approved plans.

This certification shall be accompanied by as-built plans, signed and stamped by a professional land surveyor and the supervising professional engineer. Prior to issuance of an occupancy permit, a registered professional engineer shall inspect the lot and certify to the Planning Board and Building Commissioner that the grading conforms to that shown on the approved plan.

The Board would like the same condition as Blanchard Farm Estates at 40 Curtis Street with respect to the professional engineer.

#### **ACCEPTANCE OF STREET AS A TOWN WAY**

23. Approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of streets shown on the Plan.

*The Board would like "does not" underlined.*

Mr. Taylor moved that the Planning Board approve the Definitive Plan titled White Ash Farm, A Definitive Flexible Open Space Development Plan, dated February 19, 2013, revised through

December 4, 2013, stamped by William McGovern PLS on December 23, 2013, based on the following criteria:

1. Completeness and technical adequacy of all submissions;
2. Determination that development at this location does not entail unwarranted hazard to safety, health and convenience of future residents of the development or of others;
3. Conformity with the requirements of Section 6.0 and 7.0 of the Town of Scituate Subdivision Rules and Regulations, except as specifically waived by the Planning Board and the Zoning Bylaw;
4. Determination that the subdivision as designed will not cause substantial and irreversible damage to the environment, which damage could be avoided or ameliorated through an alternative development plan.

And subject to the following conditions as discussed at the 4/24/14 public meeting (wherever a condition refers to "the applicant" this shall include his successors or assigns as applicable): (Conditions as noted above). Mr. Pritchard seconded the motion. Motion was unanimously approved with members Limbacher, Pritchard, Taylor and Vogel voting.

Mr. Taylor moved to close the public hearing and accept the applicant's request to continue the time for action for filing all three decisions with the Town Clerk for the Definitive Subdivision Plan, Flexible Open Space Plan and Scenic Road/Public Shade Tree Hearing for White Ash Farm Lane – A Flexible Open Space Definitive Subdivision until May 15, 2014. Mr. Pritchard seconded the motion. Motion was unanimously approved.

### **Accounting**

#### **Documents**

- PO # 1406395(\$990.00), PO # 1406514(\$630.00), PO # 1406394(\$3,427.49), PO # 1406507 (\$108.00), PO # 1406497(\$198.00), PO # 1406550 (\$95.00)

Mr. Taylor moved to approve the requisition of \$990.00 to Amory Engineers, P.C. for VBOD and WRPD maps for Town Meeting, for \$630.00 to Image Resolutions for collated handouts for Town meeting, for \$3,427.49 to Amory Engineers P.C. for engineering peer review for Blanchard Farms Definitive Subdivision, for \$108.00 to Westographics for the revised VBOD map mounted on foam core, for \$198.00 to Westographics for full size maps for Town Meeting and for \$95.00 to MAPD, Inc. for the Town Planner to attend the MAPD annual conference. Mr. Pritchard seconded the motion. Motion was unanimously approved.

### **Town Meeting Wrap Up**

Chairman Limbacher inquired if there was any news from Town Counsel regarding 50 Country Way and the Water Resource Protection District grandfathering. Ms. Harbottle indicated there was no news. Since there was no discussion on Town Meeting, Ms. Harbottle asked the Board what initiatives they would like to consider for 2015. Mr. Vogel suggested that Floor Area Ratio (FAR) may be in order. Ms. Harbottle indicated that two women from First Cliff were in the other day and would like to pursue the same issue. Chairman Limbacher thought it FAR was worth pursuing. Mr. Pritchard said he would want public input. Ms. Harbottle said FAR was raised about 10 years ago and the entire Cedar Point area was against the concept. Mr. Vogel said that FAR would need to be tied into raze and reconstruct applications so the public will understand the issue. Mr. Taylor suggested Marion Road as an example. Ms. Harbottle said that the Board should not pick on any specific address. Mr. Vogel suggested that Wellesley and Newton both have good bylaw for FAR. Mr. Taylor asked about surrounding towns. Mr. Vogel said he would do a web search to include

other towns and waterfront towns such as Marblehead. Ms. Harbottle said that the Board has talked about the Accessory Dwelling Bylaw. The Board indicated they would like to pursue this and make it less complicated. Mr. Taylor asked if there was any news on the MBTA property. Ms. Harbottle indicated that they were given exactly what was passed at Town Meeting in preparation for an RFP to come out soon. Mr. Taylor indicated he would not be at the May 8 meeting.

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

#### **Documents**

- Staff report dated 4-24-14
- Planning Board approved meeting minutes 3-13-14
- 50 Country Way letter dated 4-17-14 to Chris Ford on public benefit/density
- 2014 Green Communities Grant Application dated 4/18/14
- Press release for Scituate PHA special meeting.

These items were distributed to the Board electronically.

Mr. Vogel moved to adjourn the meeting at 10:15 p.m. Mr. Pritchard seconded the motion. Motion was unanimously approved.

Respectfully submitted,

Karen Joseph  
Planning Board Secretary

Richard Taylor, Clerk  
5-8-14  
Date Approved