

**TOWN OF SCITUATE**



600 Chief Justice Cushing Hwy  
Scituate, Massachusetts 02066  
Phone: 781-545-8730  
FAX: 781-545-8704

*Planning Board*

**Special Permit – Residential Cluster District  
Stormwater Permit under Scituate General Bylaw Section 32050  
Seaside at Scituate – Toll Brothers, Inc. – off Hatherly Road  
Decision: APPROVED with Conditions**

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Applicant: Toll MA Land III Limited Partnership, c/o Toll Brothers, Inc.  
Address: Approximately 70 acres off of Hatherly Road and Tilden Road  
Owner: Benjamin Goulston, Trustee of Suburban Realty Trust  
Address: c/o Samet Co. Attn: Marina. 1330 Boylston St., Chestnut Hill, MA 02467  
Request: Approval of special permit for a Residential Cluster District  
Under Scituate Zoning Bylaw Section 510

Date: May 17, 2018

Location: 3,051,176 sq. ft. +/- or approximately 70 acres off Hatherly and Tilden Roads,  
Scituate, MA, approximately 55 acres between Hatherly and Tilden Roads,  
approximately 13.92 acres east of Hatherly Road and 38,535 sq. ft. east of  
Oceanside Drive

Title: Certificate No. 80702

Assessor's Map: 34-2-2A-F, 34-3-7, 9-11, 34-4-1-4, 34-5-1-8, 34-6-13-13C, 34-15-1, 8-9, 34-17-18-  
21, 34-18-1-6, 39-2-1-5, 39-3-2-4, 39-4-1-4, 39-27-28

Zoning District: Residential R-3, Residential Cluster District and Floodplain & Watershed  
Protection District (east of Hatherly Road)

Hearing Dates: July 13, 2017, August 24, 2017, October 12, 2017, November 9, 2017,  
December 21, 2017, January 25, 2018, March 8, 2018, April 12, 2018 and May 10,

2018.

Members Hearing Special Permit Application: Stephen Pritchard, Ann Burbine, Richard Taylor, Benjamin Bornstein and William Limbacher

**Decision: Approved with conditions by a vote of 4-1 with member Bornstein opposed.**

**Background:**

The property is an approximately 70 acre site. Approximately 55 acres lies between Hatherly and Tilden Roads. It contains treed wetlands, a couple of abandoned homes, a smokestack and various concrete, brick and bituminous areas that were associated with the former Proving Grounds and manufacturing process of the George Goulston Company. 13.92 acres lies east of Hatherly Road and contains some wetlands and floodplain area as well as trees and bituminous areas from the former manufacturing operations on the site. 38,535 sq. ft. of the site lies east of Oceanside Drive. Access to the site is from an existing driveway off Hatherly Road.

In the Residential Cluster Development proposal for the site, 142 units in an active adult residential cluster district are proposed on the land between Hatherly and Tilden Roads. Ten single family homes are proposed with nine of them being located east of Hatherly Road and one located off of Longley Road. The ten single family homes are included for stormwater purposes only and have been separated from the development land by appropriate measures. No affordable units are proposed. A Memorandum of Agreement with the Board of Selectmen and the Applicant to be enacted within 30 days of the end of all municipal appeal periods provides for the land east of Oceanside Drive and a portion of the land east of Hatherly Road to be donated to the Town. A cash payment will also be provided which serves a significant public benefit.

The project will be serviced by Town water and sewer which has been determined to have adequate capacity for the development. Stormwater will be collected by catch basins and piped to stormwater infiltration basins which mitigate rate and volume of runoff. The proposed rate and volume of runoff do not exceed pre-development conditions for the 2, 10 and 100 year storm events. Stormwater recharge volume and pretreatment and water quality have been provided in accordance with the Massachusetts Department of Environmental Protection (MassDEP) Stormwater Policy and Town of Scituate Stormwater General Bylaws. Erosion and sedimentation control will be provided for the entire project.

The Applicant submitted a Stormwater Report and Calculations by Stantec Consulting Services, stamped by Kevin P. Klein, P.E. This report and the accompanying residential cluster special permit plans was reviewed by the Town's consulting engineer, Horsley Witten Group Inc. (HW), who submitted detailed comments to the Planning Board. In response to these comments, the Applicant provided revised reports and plans that, after further review by the consulting engineer, were found to address their recommendations.

The Planning Board's consulting engineer hired Vanasse & Associates, Inc. (VAI) to review the Traffic Impact Study performed by the Applicant's consultant McMahon Associates. VAI recommended that the Applicant expand their traffic study area to include additional intersections and that it provide additional information in order to evaluate pedestrian connections to the waterfront, obtain vehicle crash data from the Scituate Police Department, provide calculations for trip generation projections and provide traffic volume data and travel speed measurements over an extended period on two consecutive weekdays. Information was provided by the Applicant and VAI

is in agreement with the sight distance measurements and the conclusion that the roads are appropriately located along Hatherly Road and Tilden Road to afford the necessary lines of sight to function in a safe manner.

Additional sewer and water studies were performed by Weston & Sampson at the Applicant's expense. The sewer study found that "there is adequate available capacity (pipe flow) for the 34,380 gpd of maximum daily flow that will be introduced by the proposed development." The sewer study identified several measures which will be taken by the Applicant as shown on the drawings or conditioned herein including light cleaning and CCTV inspection of existing sewer lines along Ermine Street, Longley Road, Hatherly Road from Longley Road to Fifth Avenue and Fifth Avenue and Sixth Avenue to better define the existing condition of the pipes. The water system study modeling showed that "all fire flows are above the minimum requirements." The flows available to the single family homes exceed the minimum requirements. Peak hour pressure is greater than the Massachusetts Department of Environmental Protection (MassDEP) required minimum. "The pressure decrease expected due to the increase in water demand from the development was more than offset by the pressure increase from the additional water mains feeding the area." The analysis assumed that water supply for the town and development, from the town wells and water treatment facility, is available at normal summertime capacity.

Environmental assessments were performed at the site. Two Release Tracking Numbers (RTN's) were issued by MassDEP for the site and soil excavation and groundwater sampling occurred. Completion Reports were filed with Mass DEP in 2011 with the opinion that the site had no reportable concentrations remaining. Four Areas of Concern (AOC) were identified in 2014 during a Phase II Environmental Site Assessment Study done on behalf of Toll Brothers. The four AOC's are part of a draft Release Abatement Measure Plan (RAM) Modification that will be filed with MassDEP after the Applicant takes possession of the property. The RAM Plan describes soil excavation and off-site disposal in the four AOC's so that the site is acceptable to Toll Brothers for residential development.

#### **Procedural Summary:**

An application for a Residential Cluster District Development Special Permit was filed with the Town Clerk on May 12, 2017. A Public Hearing on the Special Permit was duly advertised and notices sent to all abutters in accordance with MGL Chapter 40A. The Public Hearing was opened on July 13, 2017 and continued to August 24, 2017, October 12, 2017, November 9, 2017, December 21, 2017, January 25, 2018, March 8, 2018, April 12, 2018 and May 10, 2018 when the hearing was closed and the Special Permit was approved with conditions. All members were at all sessions where testimony and evidence was presented or filed a Mullin Rule Certification for missing only one meeting.

#### **Public Hearing Summary:**

When the public hearing was opened on July 13, 2017, Planning Board Chairman Mr. Stephen R. Pritchard explained the process for the hearing. Toll Brothers and their project team of were present. Ms. Janet Bernardo of HW, consulting engineer for the Town and Laura Harbottle, Acting Town Planner were also present. At the meeting, a joint meeting with the Conservation Commission, the Applicant made a presentation of the age restricted 142 unit townhouse developments with amenities. The Applicant discussed the wetland impacts and stormwater management system with the Conservation Commission and Planning Board asking questions. Environmental issues, traffic

issues, layout and design issues and purpose of the bylaw were topics indicated to be discussed at future hearing sessions.

At the August 24, 2017 hearing session, an alternative proposal of a 90 single family four bedroom community was discussed with impacts to the surrounding community. The purpose of the bylaw for the proposed development was discussed. The Board indicated they wanted feedback from the Design Review Committee. Stormwater was briefly discussed. The Applicant's Licensed Site Professional (LSP) gave a review of the environmental remediation history at the site. Traffic was also discussed with both the Applicant's consultant and the Town's consultant present.

On October 12, 2017, HW indicated that the stormwater for the project meets the MassDEP standards; however the Conservation Commission asked the Applicant to investigate if more water could be sent offsite to Satuit Brook. The Applicant indicated that they were not going to redesign the drainage for the site, but would look into rebalancing the water flow onsite. Traffic was discussed with the Applicant agreeing to install a rectangular rapid flashing beacon at the Hatherly Road crosswalk. The Applicant indicated the hammerheads are being redesigned to meet the requirements of the Fire Chief and all roads are at least 20 feet wide with the front entry boulevard off of Hatherly Road being 10 feet wide on each side. The Board had just received the Draft Remediation plan so it was not discussed. The cut/fill plan was reviewed. The Applicant indicated that they believe the site is a net import site as the elevations are being driven by the high water table and the requirement that the drainage basins must maintain 2 feet of separation above the seasonal high groundwater table. The Applicant indicated there will be no basements. The Board surmised that very little onsite will remain undisturbed. The Applicant indicated there would be two phases to the project with all of the major infrastructure, remediation and major earthwork completed in Phase 1 before the homes are occupied. The Board was concerned with the dead end road length for Phase 2; however, the Applicant said it was not really a dead end as there would be emergency access through Ermine Street. The Applicant said they have met with the Design Review Committee and they are preparing a materials board for them. The Board asked about the elevations of the development in relation to the existing roads as it appears that 8 – 10 feet of fill is being brought in. Infrastructure was discussed. HW indicated that the Scituate Department of Public Works (DPW) wants the water lines looped which is not what is currently being shown. Attorney Ohrenberger indicated that the Water and Sewer Commissioners have already issued the water and sewer capacity for the project in response to comments from the DPW. The Board indicated that they understood that sewer discharge from the proposed homes will be offset by investments in the elimination of inflow and infiltration (I & I) from the existing system freeing up capacity; however, DPW's comments that the developer must prove that the existing sewer and water systems can handle the sewer flow and water demand will create no adverse effect to the Town must be addressed. HW's zoning analysis was also reviewed. The Board indicated at the next hearing they would like to discuss construction phasing, the construction plan, Design Review Committee and landscaping. Regarding the construction plan, the Board said they wanted to know construction sequencing and impacts to the town as well as how stormwater will be managed during construction along with dust and noise control and work hours.

At the November 9, 2017 hearing session, environmental remediation was discussed. The Applicant indicated they would notify MassDEP when they took control of the site and would do the remediation of the four areas of concern (AOC's) while they were doing other work on the project. They indicated the AOC's would be demarcated so they would not be disturbed during the remainder

of the work and that remediation in those areas would be according to the remediation plan. On traffic issues, the Board confirmed they wanted the flashing beacon light at the Hatherly Road crosswalk and they found the width of the roads acceptable. The Applicant indicated they prefer to use granite Belgian block for the curbing as it lasts longer. The Board determined they would prefer to see cobbles and a Not a Thru Way or Do Not Enter sign at Ermine Street instead of a gate. The Board agreed to review the proposed road cross section with DPW and they discussed that driveways within 65 feet of an intersection shouldn't be an issue due to slow traffic. Stormwater, infrastructure, cut and fill, phasing and construction and fiscal impacts were briefly discussed. The Board mentioned the idea of a clerk of the works as the Board might want to have someone there full time. The Applicant indicated they will have a construction manager with a few construction supervisors reporting to him as well as a few licensed construction managers on site every day. HW indicated that the Homeowners Association, easements, the open space, erosion control and landscaping still need to be discussed. The Town Planner also indicated surety and what plans are to be recorded still needs to be determined.

On December 21, 2017, the Design Review Committee reviewed their recommendations which included: stone walls at the entry to be veneer but look like real stone; fences to all have similar caps to create uniformity in design in the development; there will be one sign at the development on Hatherly Road; more diversity in the stone foundations is desired with the architects of Toll Brother's to take that under advisement; pavers will be provided for all unit walks; exterior lighting to be Domus series luminaire, curbing to be Belgian block and the garage doors will be carriage style with one door as Toll Brothers indicated there is not enough room for two garage doors and their market research indicates consumers prefer one garage door. On the stormwater issue, the existing flooding at Sixth Avenue is a concern. The townhome development reduces the rate of runoff off the site; however two of the Form A lots produce runoff for the overall development to be in excess of the existing rate. The Applicant will work with the DPW to address this issue. A draft letter on water was received from Weston and Sampson and the Board will review it. The roadway widths are proposed at 20 and 22 feet. The Applicant agreed that monitoring wells on site will be tested prior removal under the site remediation. The Town will have the opportunity to confirm no visible contaminated soils are on site during the remediation process. Haul routes will be conditioned as roads which will not be used. Phase 1 of the project will be a stand-alone phase and all major infrastructure will be in this phase. The Board asked that concrete crushing operations be located away from the perimeter of the site. Water conservation fixtures will be used in the units.

At the January 25, 2018 hearing session, the Board requested a written update of the residential cluster development versus the single family conventional subdivision to include purpose, earthwork and tree clearing. Water and sewer issues were discussed after review by the town's consultant, Weston and Sampson was completed. The Applicant agreed that they will do a light cleaning and CCTV examination of the existing sewer lines as requested by the DPW with additional future work the responsibility of the Town. It was also agreed that the sewer connection would be left as is on Ermine Street, the sewer line would be moved to the front yards of the Form A lots and watertight seals and raised manholes would be necessary in a few locations. The request by the DPW to install 350 feet of water line in Ermine Street in lieu of looping as looping the water line back on itself was not agreed to by the Board. The Applicant and the Board did not see the need and asked the Applicant to address this issue with DPW. The Applicant was asked to address the issue of the drain pipe material with the DPW as well. The Applicant would like to use HDPE pipe in lieu of reinforced concrete pipe as the development will be private. The Board indicated that all plan

changes must be shown and that prior to starting Phase 2 the Applicant shall come back for the Board's approval. The Board agreed that there could be 25 feet of disturbance into the Phase 2 area to stabilize grading and stormwater management. Haul routes will be reviewed as it is not feasible to have large trucks go from Gannett to Hatherly Road. The Board discussed the type of rectangular rapid flash beacon that would be used at the Hatherly Road crosswalk and it would be in conformance with the Federal Highway Administration standards. Surety was briefly discussed with the Applicant indicating they would provide a bond prior to occupancy of the first unit. Ms. Joseph indicated that the Town is not in agreement with that as surety needs to be posted prior to construction and the Town would prefer cash. The Applicant said they are not amenable to cash and perhaps a covenant could be provided and more work on surety was needed. The Applicant provided the Board with a drainage solution at Sixth Avenue and Hatherly Road which would help alleviate existing flooding at Sixth Avenue. The Board was receptive and Ms. Joseph said the Town looks favorably on this solution.

On March 8, 2018, the Board reviewed open issues. The letter that the Applicant provided on the purpose of the bylaw was helpful and informative. The Applicant indicated that phasing was going to occur simultaneously and they wanted to begin construction of the model homes concurrent with demolition, concrete removal, remediation and utility installation. The Applicant said they were working with the Selectmen on a mitigation agreement and one conceptual item included a field at Wampatuck School which would require access through the Phase 2 area of the residential cluster development site. Toll Brothers indicated they met with the Proving Grounds Group and have agreed to have additional air monitoring for the Phase 2 area by the school within the first thirty days of earth moving activities and temporary fencing at the property line adjacent to the school. They have also agreed that there will be no concrete crusher at the site. The Applicant indicated they wanted a performance bond for surety with the consulting engineer to review the amount. The Applicant also agreed that they would work with the Planning Office to determine which sheets to record. The Board indicated that the haul route will be a list of streets not allowed to be used by heavy machinery or haul equipment. The Applicant indicated that there are fire department turn arounds for Road B and Road F in the 60 foot buffer as well as portions of Road F; however, the roads are not structures or accessory uses and there will be landscaping provided. The Applicant has also indicated that they have not resolved the addition of 350 feet of water line in Ermine Street in lieu of looping and the drain pipe material. The Applicant concurs that the Town will have access to the site during construction and there will be third party inspections. The Conservation Commission is winding down on their public hearing and the Town Planner and the Applicant's attorney will be working on a draft decision.

On April 12, 2018, the Board discussed the Draft Findings of Fact and Conditions. No votes were taken, but there was substantial agreement on the Findings of Fact and many of the proposed conditions.

At the May 10, 2018 hearing session the Board voted on the Findings of Fact and resolved the differences in opinion on the conditions and voted to approve the project and close the hearing.

**Public Input Summary:**

Written comments both for and against the project were provided by William Jacobucci, The Proving Grounds Group, Thomas Wlodyka, Robert Herson, Catherine Seaton and Cynthia Fusco.

Department comments were received throughout the course of the public hearing. Comments were received from the Board of Health; Fire Department; DPW including the Engineering Division, Water Department and Sewer Division; Recreation Department; Police Department, Traffic Rules and Regulations Committee; Design Review Committee; Conservation Commission and Building Department.

At the July 13, 2017 public hearing session, Aaron McCormack of 29 Marion Rd Ext asked when the wetlands filling would occur since the project was to be phased over five to six years. Anthony Antoniello said he has appealed the sewer connection permit to the EPA and MassDEP as the town sewer treatment plant is at 80% capacity and the sewer system does not abut the property. Bill Seroll of 58 Oceanside Drive asked about the land between Hatherly Road and Oceanside Drive. Mike Davis of 132 Hatherly Road confirmed there will be no impact to the town for plowing as the development is private.

At the August 24, 2017 hearing session, Sean O'Connor of 132 Tilden Road asked about walkways and if the dead end area of the site by Ermine Road could be a playfield connected to Wampatuck School. Lauri Swart of 11 Norwell Ave. added that for 180 days a year there is recess at the adjacent school and she feels it is in her back yard. Scott Greenbaum asked if the houses east of Hatherly Road would be part of the condominium association and about upgrades on the Hatherly Road side. Hal Stokes of Curtis Street was concerned with the sameness of the houses and the cookie cutter approach to the design. Mr. Friedman of Oceanside Drive asked about basements and noted the poor condition of the sidewalk on Hatherly Road. Christine Loeb of the Proving Grounds Group said she does not recommend the Town take the marsh land on the east side of Hatherly Road as it requires extensive maintenance. She said that most of the site will be disturbed and wants more trees instead of just a wildflower meadow as she wants the site fully replanted to handle stormwater. The Piotrowski's of 119 Hatherly Road were concerned that traffic numbers reflected peak summer traffic.

On October 12, 2017, Laura Curtin of 58 Kenneth road expressed concern that there was no traffic light at Hatherly Road as volume is high. She indicated she thought that the 60 foot buffer would not be cleared. Sean O'Connor of 132 Tilden expressed concern over the perspective from the street as much fill is being brought in and the homes will be very high. Jeff Kalla of 28 Kent Street asked how the general public understands how the analyses made on water and sewer applies to one developer but other developers and existing homes cannot tie into the sewer system. He asked who was going to maintain the roads and water and sewer facilities on site. The Applicant indicated the condominium association would be responsible for maintenance of the site infrastructure and the Town would have no responsibility. David O'Connor of 13 Grasshopper Lane asked if the project will increase capacity in the sewer system and if new sewer service is being provided while failing to take care of existing homes. The Board indicated that discussion needs to occur with the Water and Sewer Commissioners. Carly Desmond of 38 Thomas Avenue said she read that the town water will only be used for household use. The Board confirmed that is correct with the Applicant indicating that there will be wells onsite for irrigation purposes. Laura Curtin asked if they could use rainwater and stormwater for irrigation. The Applicant said they did not evaluate rainwater, but stormwater is not conducive to irrigation. Mr. O'Connor asked if the age restriction to over 55 would be in perpetuity. The Board indicated it would.

At the November 9, 2017 hearing session, Catherine Seaton of Doctors Hill Drive asked if there would be street parking. The Applicant indicated there would not. A resident from 60 New Driftway opined that there was not enough parking for guests based on her experience of living in a similar type of development. The Applicant indicated a number of people will walk in the development to the clubhouse and they could insert a few visitor spaces around the development. The Applicant indicated 4 spaces per unit are very generous.

On December 21, 2017, Jeff Kalla of 28 Kent Street asked about water usage. The Applicant and board indicated that town water resources would not be used for landscaping. Karen Canfield, Selectmen liaison, asked about the irrigation wells and testing of the water after construction to ensure abutter safety. All of the wells will be permitted through the Board of Health and it was confirmed no town water would be used for sprinklers or irrigation. Mr. McCormack of 29 Marion indicated that the phasing was not obvious to the abutters and questioned if there should be any clearing in the 60 foot buffer. The Applicant indicated that clearing in the buffer is allowed as it will be landscaped in the end. Mr. Piotrowski of 119 Hatherly Road expressed desire for noise to be monitored.

At the January 25, 2018 hearing session, Mr. Jacobucci questioned opening up Ermine Street to traffic from the development. The Board indicated it will be for emergency use and will have a granite rumble strip and a Do Not Enter sign. Laura Curtain of 58 Kenneth asked about noise parameters as there is a school adjacent to the property. Chairman Pritchard indicated that there will be construction hours and that the state noise limitations will need to be followed. The Applicant indicated that concrete crushing would probably be about two months. The Board asked that the crushing occur prior to tree removal to help abate noise and neighbor concerns. Christine Loeb asked if modular units were being used. It was confirmed that the units are not modular.

On March 8, 2018, Elise Kline raised a concern about onsite wells as water is an issue in the town. Kathy Woodland was concerned about the drainage at Sixth Avenue and asked about the continued use of the property when flooding occurs. Laura Curtin expressed concern that the School Committee had not commented as she was concerned about truck traffic during school hours. The Board indicated that the haul route is being restricted by the school and will not be allowed beyond the Tilden Road entrance to the site.

There were no public comments at the April 26, 2018 hearing session.

At the May 10, 2018 hearing session there were no public comments.

**Findings of Fact:**

The following findings of fact based on information submitted by the Applicant and the testimony given during the Public Hearing were approved on May 10, 2018:

1. Toll MA Land III Limited Partnership, c/o Toll Brothers, Inc. (the "Applicant") filed an application for a Residential Cluster ("RC") District Special Permit under Scituate Zoning Bylaw Section 510 on May 12, 2017 along with an application for a Stormwater Permit under Town of Scituate General Bylaw Section 32050 and its implementing regulations, dated 4/29/2010 (together, the "Applications"). The Applications included, but are not limited to, the following:



- a. Plans by ESE Consultants and Stantec entitled Seaside at Scituate, Site Development Plan for Senior Residential Community, Town of Scituate, Plymouth County, Massachusetts, dated March 24, 2017. The most recent set of revised plans were revised on 2/9/2018 and consist of 70 individual sheets;
  - b. Draft Release Abatement Measure Plan Modification by GEI Consultants, Inc. dated December 2017;
  - c. Stormwater Report, Seaside at Scituate, Residential Development, Hatherly Road and Tilden Road, Scituate, Massachusetts, prepared by Stantec Consulting Services, revised October 31, 2017; and
  - d. Architectural elevations by Toll Architecture dated 8/31/2017 showing residential units Andover, Bethel, Bristol, Bryn Athyn, Bucknell, Strathmere elevations and undated residential units' architectural elevations received by the Planning Office on 9/5/17 showing unit groupings of Bristol-Strathmere-Bristol, Bethel-Andover-Bristol and Bryn Athyn-Strathmere-Andover-Bristol.
2. The property that is the subject of the Applications is an approximately 70 acre parcel located off of Hatherly and Tilden Roads. Approximately 55 acres of the property ("Townhome Property") is located between Hatherly and Tilden Roads where the Applicant has proposed to build 142 age restricted townhomes. Of the 55 acre Townhome property, 51.428 acres is not located within wetlands. The Townhome Property is in the Residence R-3 District and Residential Cluster District (RC) and is the subject of the RC Special Permit. One Form A lot of approximately 1.07 acres is separate from the Townhome Property and approved by the Board and also lies west of Hatherly Road. Approximately 13.92 acres of the parcel lies east of Hatherly Road (the "Eastern Property"). Of this Eastern Property, approximately 6.06 acres were divided into nine buildable Form A lots ("Single Family Homes Property") and two unbuildable lots with approximately 7.86 acres (the Marshland Property). The Eastern property is in the Residence R-3 District, Residential Cluster District and partially in the Floodplain and Watershed Protection District. Although the ten buildable Form A lots are not part of the RC Special Permit, they are included in the Stormwater Permit. The stormwater management system for the entire Project includes the Form A lots. The Board finds that the Town's Stormwater General Bylaw and regulation requirements will be met by issuing the RC Special Permit and Stormwater Permit.
  3. The uses permissible by RC Special Permit include detached single family units and /or attached town houses and uses and buildings accessory thereto as well as recreational uses related to the residence in the Residential Cluster (RC) District. The Applications propose to build 142 attached town houses, a clubhouse and associated recreational facilities including an outdoor pool, bocce court, pickle ball courts and trails. The Form A lots will comply with the Residential R-3 district requirements and therefore meets the requirements of Section 510.3.
  4. As required by Scituate Zoning Bylaw Section 510.4, Design Standards and Requirements, the Planning Board has considered the extent to which the proposal satisfies the Design Standards detailed below:
    - A. Standard: The project shall contain a minimum of twenty acres of lot area.

Finding: The proposed property contains 51.428 acres of upland area and, therefore, meets the requirements of Section 510.4 A.

- B. Standard: The Bylaw requires a maximum of one unit per ten thousand square feet of lot area, but in no event more than four units per acre.

Finding: One hundred forty two units are proposed on 51.428 acres. The Applications indicate that the proposed density is 2.76 units per acre and, therefore, complies with the requirements of Section 510.4 B.

- C. Standard: Any land given to the Town for recreational, municipal or school use shall be included in the lot area.

Finding: The area east of Hatherly Road has not been included in the lot area for the residential cluster development as the lot area of that land satisfies the lot area and density requirement without it and, therefore, meets the requirements of Section 510.4.

- D. Standard: The height of the buildings in the RC District shall not exceed two and one half stories and /or 35 feet in height measured from the average finished grade of the ground adjoining the buildings to the ridge.

Finding: The Applications indicate that all buildings will have a height less than 35 feet measured in accordance with this standard and, therefore, meets the requirements of Section 510.4 D.

- E. Standard: All residential structures and accessory uses within the project shall be setback from the boundaries of the development by a buffer strip of at least sixty feet in width, to be kept in a natural or landscaped condition, except in relation to roads existing at the time of adoption of this bylaw where such strip shall be sixty feet.

Finding: No residential structures or accessory uses buildings for the RC development are in the 60 foot buffer strip. There are underground utilities and natural walking trails in the buffer area which are accessory uses to the residential structures that, upon completion, will be restored to a landscaped condition in accordance with the Applications. A portion of the cul-de-sac of Road B, the hammerhead for Road F and a significant portion of Road F are in the sixty foot buffer area. The Board has balanced the limited intrusions of these specific roads into the sixty foot buffers with the following: i) the roadways are designed to minimize the possibility of substantial through traffic between existing ways as there is only one primary throughway (between Hatherly Road and Tilden Road), one secondary connection (to Ermine Street), and all other roads have been designed as cul-de-sacs, effectively limiting other connections to existing ways; ii) by minimizing the throughway connections to existing roads, the layout also works to minimize the total paved areas in the development; iii) the buffer areas will be restored to landscaped conditions in all areas where the roads are not located and the landscaped conditions in the areas immediately adjacent to these limited roadway intrusions are not specifically designed to provide landscaped screening to augment the buffer areas; and iv) landscape plans have been provided showing landscaping to augment the buffers. Therefore, the Project meets the requirements of Section 510.4 E as all residential and accessory use buildings are outside the 60 foot buffer and only limited areas of the roadways are in the 60 foot buffer which serve to conform to other

conditions of the bylaw (G and N5), and all buffers will be left in either a natural or landscaped condition.

- F. Standard: There shall be an adequate, safe and convenient arrangement of pedestrian circulation facilities, roadways, driveways and parking. Parking facilities shall be provided in a ratio of two and one-half spaces per dwelling unit, covered or uncovered. There shall be no parking in the buffer strip referred to in 510.4.E.

Findings: The Applications provide sidewalks and trails throughout the site allowing for safe, convenient pedestrian circulation. Roadways and driveways are safely arranged. There are two garage spaces per dwelling unit and two outside driveway parking spaces per unit. No parking is designed or allowed in the sixty foot buffer area. Visitor parking and clubhouse parking have been provided; occupancy limits of the clubhouse will be based on the Scituate Zoning Bylaw. Therefore, the proposal meets the requirements of Section 510.4 F.

- G. Standard: The Planning Board shall give preference to a layout which minimizes paved areas.

Findings: The Applicant demonstrated that the units have been clustered together resulting in less roadway, driveways, sidewalks and impervious surface than an alternative as-of-right site development for single family homes. There is more total open space as less land is devoted to the above uses and this open space will be protected in perpetuity by a Condominium Trust. Onsite amenities for the private use of the residents include an outdoor pool, bocce, pickle ball courts and trails. The clustered design provides for less grading and fill than would be required under an alternative single family home layout. The proposal meets the requirements of Section 510.4 G.

- H. Standard: All residential units shall be connected to all public and private utilities, at the developers' expense and in accord with the rules and regulations of the Town of Scituate Department of Public Works (DPW).

Finding: i) All residential units and accessory structures will be connected to Town of Scituate water and sewer and will meet the rules and regulations of the Town of Scituate DPW. ii) The stormwater management from the RC development will be collected, treated and retained onsite so that there will be no increase in rate or volume of stormwater offsite. The predevelopment stormwater runoff towards Sixth Avenue has been further decreased post-development to accommodate runoff from two of the Form A lots. In addition, the Applicant has agreed to install catch basins, a drainage channel and a closed pipe system along the Hatherly Road frontage on the west side of the property discharging to the Sixth Avenue storm drain line to help alleviate an existing flooding situation at Sixth Avenue. The predevelopment impervious area on the Form A lots along Hatherly Road has been decreased under post development conditions and the stormwater management of these lots also meets the rules and regulations of the Town of Scituate; and iii) Gas, telephone, cable and electric utilities will be installed underground and connected to their respective private utility service. Therefore, the proposal meets the requirements of Section 510.4 H.

- I. Standard: The developer shall grant to the Town such easements as the Town may request for the proper maintenance, testing or repair of any public utilities.

Findings: The Applications show that easements will be given to the town for any public utilities and are shown on Sheet 50 of 70 of the Applications. Therefore, the proposal meets the requirements of Section 510.4 I.

- J. Standard: Quality of construction design standards for roads and utilities shall generally conform to those contained in the Planning Board's Regulations for Subdivision Control and/or Design guidelines for Site Development insofar as reasonably applicable, but the board may vary those standards to meet the needs of the RC District or general area.

Findings: Roadway cross sections and grades are in general conformance to the subdivision regulations. Adequate sight line distances have been provided for traffic safety. The roads in the development will be private in perpetuity as they are not subdivision roads but part of a residential cluster development and they generally conform to many of the Town of Scituate Rules and Regulations Governing the Subdivision of Land, except that the Board supports the following variations to those standards: i) Road B and G are longer than 600 feet; ii) main and ancillary roadway curb to curb widths are narrower than the standard since they are 22 feet and 20 feet respectively to meet the purposes of the bylaw; iii) the roadway curbs are to be constructed on both sides with Belgian block curb; iv) the roadway sideway systems will be constructed with a five foot grass strip and five foot sidewalk on one side of the roadway as details in the Applications; v) The pavement cross section is 2.5" of binder and 1.5" of finish/wearing course; vi) utilities are underground; vii) the Fire Department agreed that the hammerheads and cul-de-sacs at the ends of some roads are acceptable for public safety; and viii) the drainage system is in general conformance to the subdivision regulations with the exception that high density polyethylene pipe (HDPE) will be used on the development in place of reinforced concrete pipe (RCP) except for the drain line leading toward Sixth Avenue, and in any Town roads (RCP) pipe will be used.

- K. Standard: Land not devoted to dwelling units or permitted accessory uses shall be set aside as common open space for the use of the residents.

Findings: A Condominium Association Trust will be formed to own and maintain the open space in accordance with trust and maintenance documents filed during the proceedings. Trails within the development will connect the open space with roads and dwelling units and accessory uses within the development. The deed restriction will be recorded providing that the open space be kept in its natural state in perpetuity and not developed for residential use or for its accessory uses. The deed restriction will also provide for maintenance of the common land in a manner which will ensure its suitability for its function, appearance, cleanliness, proper maintenance of drainage, sewer pipes and the like. Therefore the proposal meets the requirements of Section 510.4 K.

- L. Standard: The board shall insure proper siltation control and site stabilization during construction.

Findings: Erosion and sedimentation control plans have been included in the Applications and are part of the overall site plan and shall be followed. A construction sequence has been included in the Applications and shall be followed. The Applicant has committed to file, prior to the start of any construction, an subsequently conform with an Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) Construction General Permit Notice of Intent with a Storm Water Pollution Prevention Plan (SWPPP). Therefore the proposal meets the requirements for Section 510.4 L.

- M. Standard: The Planning Board may grant a density bonus for developments that provide affordable housing.

Findings: The Residential Cluster does not include any affordable housing and, therefore, no density bonus will be granted for the development. The proposal meets the requirements for Section 510.4 M.

- N. Standard: Other design provisions for the RC District include:

1. Standard: No more than two residential units may share a common façade line without having an offset of three feet for an adjoining unit.

Finding: The proposal meets this requirement.

2. Standard: No building shall be more than one hundred fifty linear feet in length nor contain more than seven units.

Finding: All residential buildings are grouped in either three or four units and do not exceed one hundred and fifty feet in length. The proposal meets this requirement.

3. Standard: Buildings in the district shall be separated from each other by a distance of no less than thirty five feet.

Finding: Each residential building is separated from each other by approximately forty feet. Therefore, the proposal meets this requirement.

4. Standard: Public bikeways and pedestrian walkways may be required by the Board to provide circulation to community facilities.

Findings: The Board has required that a pedestrian crosswalk with a pedestrian activated warning device be installed at the Hatherly Road entrance in order to facilitate pedestrian crossings of Hatherly Road and allow for beach access. A sidewalk is provided on one side of the road connecting to trails throughout the site and providing resident pedestrian access throughout the site. Therefore, the proposal meets this requirement.

5. Standard: The Planning Board shall give preference to a design that minimizes the possibility of substantial through traffic between existing ways.

Findings: The project layout and the design and width of the roads in the development minimize the possibility of through traffic. A rumble strip at Ermine Street will discourage through traffic and allow for emergency access.

A "Do Not Enter" sign will also be installed. Therefore, the proposal meets this requirement.

- O. Standard: Section 510.5 2. a. requires that the plan complies with the requirements under Section 770.2 of the Zoning Bylaw, Site Plan Administrative Review.

Findings: The requirements for this section have been met by the site plans and architectural design elevations and building layout materials submitted. Therefore, the proposal meets the requirements.

- P. Standard: Section 510.5 2. b. requires impact studies to be submitted.

Findings: The following impact studies were submitted and reviewed: i) traffic impact study; ii) fiscal impact analysis including an impact analysis on the public schools; and an iii) engineering report including water, sewer and road impacts as well as impacts on transportation facilities, shopping facilities and local businesses. Therefore, the proposal meets the requirements.

- Q. Standard: Section 510.5 2. c. requires other data by other regulations of the Planning Board.

Findings: Additional water and sewer studies were done by the Town's consulting engineer, Weston & Sampson to verify that each of the Town's physical piping systems have adequate capacity for the development. Therefore, the proposal meets the requirement.

- R. Standard: The Planning Board shall require the construction of ways, installation of utilities, and construction and installation of all other amenities required by the Special Permit and bylaw, as well as possible restoration of the site, be secured by a type and amount of security satisfactory to the board.

Finding: The Applicant will provide a security. Therefore, the proposal meets the requirement.

- S. Finding: The project will cleanup and remediate a site which has been unresolved for many years. The Applicant has agreed to notify the MassDEP of the last test results and has developed a site remediation plan for the near-term remediation of contamination.

- T. Finding: The Applicant's Fiscal Analysis indicates the age restricted residential cluster development is projected to provide a positive source of revenue for the Town. The Applicant's analysis indicates the proposed RC development will have no impact on the Town's school system and the Town should anticipate annual net positive revenue of approximately \$ 795,000 per year.

- U. Finding: The Applicant indicates that building permit fees and construction jobs will help boost the economy during construction. The Applicant's analysis indicates that the total building permit fees are expected to total approximately \$ 842,956 per year for a three year build out and the total/peak construction jobs will be 355 construction jobs and 105 permanent local jobs.

- V. Finding: Mitigation will be provided through the Board of Selectmen to help fund select community projects enhancing the town as a whole, including a comprehensive water and wastewater capacity study that will develop a detailed methodology for the assessment of the Town's water and wastewater systems to meet new capacity requests while preserving and enhancing the performance of the systems for existing users.

Based on these findings, the Planning Board finds the Residential Cluster District Special Permit meets the requirements under the Residential Cluster District, Section 510 as the Project will be in harmony with the general purposes of this bylaw and the requirements of MGL Ch. 40 A and it will not have a greater detrimental impact on the neighborhood than a conventional plan, is designed with consideration for health and safety and is superior to a conventional plan in preserving open space, minimizing environmental disruption and allowing for more efficient provision of services.

**Decision:**

Based on the Findings of Fact, the Planning Board approved the Residential Cluster District Special Permit for Seaside at Scituate on May 10, 2018 with the following conditions:

**General Requirements**

1. All construction work shall be done in accordance with the plans submitted by ESE Consultants, Inc. and Stantec entitled Seaside at Scituate, Site Development Plan, for Senior Residential Community Town of Scituate, Plymouth County, Massachusetts, dated 3/24/2017, as revised through 2/9/2018, with any additional revisions needed to conform to the conditions contained herein (the "Residential Cluster Special Permit – RC Special Permit"); Draft Release Abatement Measure Plan Modification by GEI Consultants, Inc. dated December 2017; architectural elevations by Toll Architecture dated 8/31/2017 showing Andover, Bethel, Bristol, Bryn Athyn, Bucknell, Strathmere unit elevations and undated elevations showing unit groupings of Bristol-Strathmere-Bristol, Bethel-Andover-Bristol and Bryn Athyn-Strathmere-Andover-Bristol. These unit groupings show carriage style garage doors. A master set of building elevations shall be approved by the Town Planner prior to application for a building permit for conformance with submitted materials. The Planning Board may require buildings to conform to the elevations or renderings at their discretion.
2. Where this RC 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 RC Special Permit, including but not limited to the Board of Selectmen's and the Department of Public Works approval of work in all public right-of-ways including Hatherly Road, Tilden Road, Ermine Street and Sixth Avenue. Construction shall meet all applicable federal, state and local laws and regulations including, but not limited to, those of the Town of Scituate's DPW, Fire Dept. Building Dept., Board of Health, Conservation Commission and Planning Board as well as the Massachusetts DEP and the Massachusetts State Building Code. All necessary permits and approvals must be received prior to commencement of construction.
3. Construction shall meet all requirements of the Scituate Zoning Bylaw. All conditions of approval shall be inscribed on the RC 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 Townhome Property shall not exceed 142 age (55 years and older) restricted townhouse units. The total number of bedrooms in the 142 dwellings shall not exceed 310 (116 two bedroom dwellings and 26 three bedroom dwellings).

### **Roads**

6. Access to all buildings on the Townhome Property shall be over the proposed private roads. There shall be no further extension of roads or attachments of any other roads or common driveways to the proposed private roads.
7. The roads on the Townhome Property shall remain private in perpetuity as they are not built to subdivision standards. The Seaside at Scituate Condominium Trust shall maintain the roads in perpetuity.
8. The Applicant shall maintain all streets and utilities within the development until such time as maintenance becomes the responsibility of the Seaside at Scituate Condominium Trust, which Trust shall then maintain all streets and utilities.
9. The Applicant shall obtain the endorsement of the Planning Board on the RC Plan within 180 days of expiration of the appeal period and this decision becoming final.
10. The Applicant shall consent to allow members and town officials of the Planning Board and other persons acting under the authority of the Planning Board as its agents, to enter upon any lands and carry out such surveys and inspections as may be deemed necessary, and place and maintain monuments and marks. The Applicant shall cooperate with the Planning Board and Town officials and assist them in their efforts to verify that the layout, design and construction work in the RC Plan are satisfactory and conform to the Town specifications and the requirements of the Planning Board.
11. An easement shall be provided allowing the Seaside at Scituate Condominium Trust 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.

The Applicant shall also grant to the Town of Scituate, a right and easement to construct, repair, replace, extend, operate, use and forever maintain all streets, water mains, sewer mains, and all surface and subsurface storm water drains in, through or under the streets and easements as indicated on the RC 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 Townhome Property, nor diminish in any way, his responsibility to complete all construction as required by the Applicant's agreements with the Town and to thereafter maintain all streets and utilities in satisfactory condition.



12. An independent third party inspector employed through the Town shall perform the required construction inspections according to Section 9.0 of the Subdivision Regulations. All required inspections shall take place and be inspected by the inspector including water and sanitary sewage facilities. The third party inspector shall be approved by the Town Planner and DPW and shall work with the Town Planner. Monthly written reports, if any, shall be submitted to the Applicant and the Planning Board stating results of any and all required inspections during construction unless more frequent reports are needed. Noise and air quality monitoring reporting in accordance with conditions 38 k. and 39 below shall also be required.
13. Construction of the proposed roads, proposed drainage system, proposed water system and proposed sewer system shall be supervised by a registered professional engineer. Said supervising engineer shall certify in writing to the Planning Board and DPW at completion that the proposed roads, drainage system, water system and sewer system were constructed in accordance with the approved plans and that said systems are functioning in accordance with the approved design.
14. The certification of the roadway construction and utilities shall be accompanied by as-built plans, signed and stamped by a professional land surveyor and the supervising registered professional engineer. Prior to issuance of an occupancy permit for any building, a registered professional engineer shall inspect the exterior of each building as necessary and certify to the Planning Board and Building Commissioner with his signature and stamp on an as-built plan, that the grading and stormwater management systems conforms to that shown on the RC Plan and are functioning in accordance with design requirements and any variation in grade is immaterial and does not materially alter the performance of the stormwater system. The site development As-Built including building structures, topography and roadway infrastructure with water, sewer, and drainage will be submitted in AutoCAD Format 2013 or higher or ESRI Interchange Format registered to the Massachusetts State Plane (Mainland) Coordinates, North American Datum of 1983 compatible with the Town's system along with stamped and signed copies of said plans.
15. The Condominium Association shall install speed limit signs on Road F and Road A to keep speeds in the Townhome Property under control.

#### **Utilities, Drainage and Traffic**

16. Maintenance and repair of the road, stormwater management system and Belgian block curb at the entrance in the Hatherly Road, Tilden Road and Ermine Street rights-of-ways, shall be the responsibility of the Applicant in perpetuity.
17. Maintenance of the drainage line and swale adjacent to Hatherly Road and the paved channel to direct runoff from Hatherly Road to the swale shall be performed by the Applicant unless and until the Seaside at Scituate Condominium Trust becomes responsible.
18. Underground irrigation systems are prohibited from connecting to the Town's water distribution system or in any manner use municipal water. All irrigation systems installed must be supplied by on-site well sources at the expense of the homeowners' association for the Townhome Property and the individual homeowner for the Single Family Homes Property. Violations of this policy shall result in a fine to the property owner, with an equal fine levied on the installer of the system. Sprinkler connections to hose bibs supplied with domestic water provided by the Town are also prohibited. All irrigation wells shall meet the requirements of the Board of Health.

19. All electrical, telephone, cable and similar or other utilities on the project site shall be located underground.
20. Working in coordination with the DPW, the Applicant shall examine the condition of the existing sewer lines along Ermine Street, Longley Road, Hatherly Road from (Longley Road to Fifth Avenue), Fifth Avenue and Sixth Avenue. Such examination shall be via CCTV inspections during the wet season and the Applicant shall alert the DPW to any immediate findings at the time of inspection (such that the DPW may view the problem while being inspected) and provide electronic video copies to the Town of Scituate Department of Public Works and the Sewer Division. It shall not be the responsibility of the Applicant to repair or otherwise address any issues discovered by this inspection.
21. The existing sanitary sewer manhole located at the end of Ermine Street shall be cleaned and rehabilitated by the Applicant to make sure it is fully functional and water tight at the time of connection.
22. All replacement of, or connection to, Town sewer, drainage and the installation of water mains and appurtenances on Town of Scituate property shall be performed according to the specifications of the Scituate DPW with a third party inspector employed to review the construction activity and assure compliance with the Town's rules and regulations.
23. As-built drawings of utilities installed including existing utilities that have been rehabilitated, capped, abandoned in place or relocated shall be provided to the Town Planner and Town Engineer at completion of the work during Phase 1 and Phase 2, in each case such as-builts shall be provided prior to any home occupancy in the respective Phase.
24. The Plans require the Applicant to perform certain infrastructure work and connections not on the Project Site. All areas where work occurs off the Project Site must be returned to substantially the same condition as existed prior to such work. However, the work shall be in accordance with Town of Scituate DPW street opening permit application and checklist.
25. A utility easement in accordance with the Overall Easement Plan revised dated 2/9/18 must be provided to the Town of Scituate for maintenance of all stormwater, sewer and water infrastructure.
26. Existing catch basin within Hatherly Road across from Lot 151 shall be replaced if it cannot be sufficiently restored.
27. A granite cobble rumble strip and Do Not Enter sign shall be placed at the site access point of Ermine Street.
28. Except for the sewer and water line, all utilities including the drainage system shall be maintained by the Applicant and the Seaside at Scituate Condominium Trust ("Condominium Trust") according to the Operation and Maintenance Manual for Stormwater Drainage Systems, dated October 2017 with revisions through February 2018 by Stantec Consulting Services, Inc.
29. Following the completion of offsite work on Hatherly Road, the Applicant shall grind and provide an overlay asphalt coating to the road and the adjacent sidewalk. This work shall be in accordance with the DPW street opening permit for the project.

30. Under the Stormwater Permit for the ten Form A lots, erosion and sedimentation control is required at the limit of disturbance and around any stockpiles. Stabilized construction entrances are required for each lot. NPDES and SWPPP requirements identified in condition 59 must be met for the Form A lots.
31. No heavy equipment shall be used inside stormwater basins once they are constructed except skid steers.
32. The Applicant shall request that the stop signs from the Townhome Property at Hatherly and Tilden Roads be adopted by the Town so that signage can be enforced by the police department.

### **Traffic**

33. Prior to a certificate of occupancy for the clubhouse, the Applicant shall install a bicycle rack at the clubhouse area.
34. Prior to commencement of work or as soon as practical, a street sign shall be erected with a street name approved by the DPW, Police Department, Fire Department and Planning Board.
35. The Applicant shall install a LED enhanced, MUTCD-compliant pedestrian actuated warning device at the Hatherly Road crosswalk. The Applicant shall install two digital speed signs on Hatherly Road and two digital speed signs on Tilden Road. Such mitigation shall be completed prior to the completion of all offsite work, including the pavement overlay on Hatherly Road. Exact locations to be confirmed with the Town Engineer and Police Department prior to occupancy of the first building.
36. A Transportation Demand (TDM) Program consisting of the following measures shall be implemented:
  - Provide public transportation schedules and fare information in a central location or otherwise make available to residents of the project.
  - Coordinate with the Scituate Council on Aging (COA) to provide information to residents on transportation services that are available through the COA.
  - Encourage residents to participate in MassRIDES' NuRide Program, which rewards individuals that choose to walk, bicycle, carpool, vanpool, or that use public transportation to travel to and from work
  - Make residents aware of the Emergency Ride Home (ERH) program available through MassRIDES, which reimburses employees of a participating MassRIDES employer partner worksite that is registered for ERH and that carpool, take transit, bicycle, walk or vanpool to work.
  - Provide a mail drop at a central location.

### **Environmental Conditions: Noise, Dust, RAM**

37. The Applicant shall provide a new Release Notification to the Massachusetts Department of Environmental Protection (MassDEP) based on contaminant concentrations above Massachusetts Contingency Plan (MCP) Reportable Concentrations that were detected in soil samples collected during the April 2014 ASTM Phase II Environmental Site Assessment by CHA Consulting, Inc. on behalf of

Toll Brothers. The Release Notification shall be provided to MassDEP in accordance with MCP requirements not more than 120 days following the conveyance of the property to the Applicant and prior to commencement of work on the site.

38. Remediation shall occur as described in the draft Release Abatement Measure Plan Modification (RAM Plan) for MassDEP RTN 4-18143 dated December 2017 by GEI Consultants, Inc. with the additional conditions and clarifications below;
- a. No later than one month prior to any land disturbance associated with site remediation, groundwater samples shall be taken from existing wells in the areas proposed for remediation. Samples shall be analyzed for the appropriate parameters to confirm that contaminants in the soil that will be excavated have not migrated to groundwater at a concentration that exceeds the Massachusetts Contingency Plan (MCP) groundwater standards that are appropriate for the property. If contaminated groundwater is detected in the samples, above MCP standards, the Applicant will provide a plan and schedule to remediate contaminated groundwater for approval by the Town prior to the commencement of any onsite remediation activities. This should include an update to the dewatering procedures in the RAM Plan as needed to address any newly identified contamination.
  - b. The Town shall be notified of all MCP submittals provided to MassDEP.
  - c. The Applicant shall install a six foot high metal fence secured to the ground around the perimeter of all such remediation areas prior to any unauthorized work thereon so as to ensure that workers do not disturb any of these areas while remediation is ongoing.
  - d. Impacted soil removed during remediation activities will be live loaded only. No storage of excavated impacted materials shall be allowed. Any necessary dewatering needed to access impacted soil will be managed as described in the RAM plan.
  - e. The confirmatory soil samples collected prior to excavation to document the vertical and lateral boundaries of the four areas of contamination must be provided to the Town's License Site Professional for review at least two weeks prior to the beginning of any remedial action.
  - f. Regular site inspections by the Town or its representative must be allowed as areas are cleared for construction to confirm that no additional contamination remains at the site.
  - g. The Applicant's Licensed Site Professional (LSP) is to notify the Town when scheduling site visits to allow the Town or its representative to visit the site concurrently.
  - h. If potential contamination sources are identified, the Applicant will notify the Town and will provide recommendations on additional soil and/or groundwater testing to confirm the presence or absence of hazardous materials. The Applicant will follow these recommendations or propose an alternate approach, acceptable to the Town, to evaluate the presence or absence of hazardous materials.

- i. At no time shall construction activities impede remediation. No occupancy permits will be issued until all remedial activities are completed and final closure documents submitted to MassDEP.
  - j. The groundwater monitoring wells within the remediation areas will be tested prior to their removal. If the results indicate that further testing is warranted, additional existing wells down gradient of any wells that test positive for the presence of contamination exceeding the MCP groundwater standard must also be tested. The Applicant's LSP will confirm with the Town and the Town's representative the final number of wells to be tested and the analyses to be conducted for each.
  - k. Air Quality monitoring will be conducted during remediation in the manner specified in the RAM Plan. The Applicant shall also conduct continuous real-time monitoring for particulates (dust) and total VOCs (TVOCs) at the property boundary with the Wampatuck School for a period of 30 days following the initial commencement of earth moving activities in the vicinity of the school during Phase Two construction sequencing. The Phase Two air monitoring system will consist of three real-time air monitoring stations that transmit measurements to a data acquisition system. Two of the stations will be positioned along the property boundary with the school and the third will be positioned in an upwind location to establish background conditions. The system will include a paging system to notify the engineer of any exceedance of any alert level or action level established in the RAM Plan. The Town shall be notified immediately if there is an exceedance of any alert or action level.
39. Site noise levels shall conform to the MassDEP's Division of Air Quality Control's Noise Policy. A baseline condition is advised to be taken prior to the commencement of any construction activities. Should the Applicant choose not to obtain a pre-construction baseline and it becomes necessary to establish a baseline condition for the purpose of measuring conformance with the Noise Policy, all construction activity on the project (and any associated Form A lots) will be shut down in order to acquire a non-construction baseline.
40. On the Townhome property, tree clearing is restricted until all demolition activities are completed with the exception of localized clearing necessary for remediation activities, construction staging areas, entryways, model home construction or for the installation of erosion control measures.
41. The Applicant shall not operate a concrete crushing machine on the site of the project.
42. Remediation of the four identified areas of concern shall be started and carried through to completion without interruption.

### **Landscaping**

43. 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. The color of the luminaries shall be submitted to the Town Planner for final approval prior to installation.
44. Up to fifty (50) additional shade trees or evergreen trees may be added by the Planning Board under the direction of the Town Planner to enhance the screening within the sixty foot buffer. Minimum sizes shall be as indicated on the plan for street trees and evergreen trees.

## **Architecture/Design**

45. The unit types and buildings shall be as represented on the architectural elevations submitted for the project. The Board understands that combinations of types of dwellings are intended to be interchangeable at the discretion of the ultimate buyer. The quality of materials, construction and colors shall not substantially deviate from those as shown on the elevations and discussed during the public hearing. Carriage style garage doors of the two door configuration shall be provided for all garages. Stone foundations provided shall contain some diversity to reflect concerns of the Design Review Committee and Board. Fencing and walls shall be according to the site plans. Stone walls at the entrance at Hatherly Road shall appear like "real" stone walls despite being veneer. Fence capping shall be similar in design throughout the site to achieve uniformity in design. Roof shingles shall be GAF Architectural shingles or approved equivalent. Light fixtures shall be installed as shown on the plans with the street lights being Domus series or approved equal. Signage shall be as shown on the plans. All temporary signage shall be removed at the completion of the project, unless approved by the building inspector to remain.
46. The location of the dwellings shown on the Plans are representative and are intended to show the general orientation and grading of the dwelling in order to conform to the stormwater system design and minimize impacts to the neighboring dwellings. Any material deviations from the plans shall require notification of the Town Planner and the impacts of such proposed deviations shall be addressed prior to the issuance of any building permits. Material deviations include but are not limited to the moving of a dwelling by more than four feet and/or any portion of a dwelling including decks being pushed into the 60 foot buffer zone.
47. The RC development shall not become a gated community.
48. The outdoor pool shall meet the requirements of the Massachusetts Department of Public Health regulations and require permits and inspections through the Board of Health. No town water may be used to fill the pool initially or in a material manner subsequently or when a full water ban is in place.
49. All proposed uses and functions of the clubhouse shall be approved and inspected by the necessary town departments and boards including but not limited to Board of Health, Fire Department and Building Department.
50. Low flow plumbing fixtures shall be the standard specified offering to prospective buyers.

## **Phasing**

51. The phasing of the project shall be according to the Applicant's proposed phasing schedule and phasing plan except as conditioned herein. The phasing is designed so that actions may occur simultaneously.
52. The project shall be accomplished in two phases (Phase 1 and Phase 2) according to the Applicant's Phasing Plan. In each phase, prior to issuance of any occupancy permit in such development phase, the infrastructure, including utilities, roadways and drainage shall be completed in accordance with the approved plans to allow safe access and egress to and from the proposed buildings and units in a like manner to that required with dwelling units in a conventional subdivision. The roadway shall be deemed sufficiently complete in each phase when the binder coat is completed with drainage and utilities installed.

53. Prior to any tree clearing included in Phase 2, the Applicant must notify the Planning Board in writing and come to a meeting to update the Board on the progress of Phase 1 and request any necessary approvals to begin Phase 2. No more than 25 feet of disturbance for stabilization of grading and stormwater management can occur in the Phase 2 area without this meeting.
54. The establishment of a haul road for purposes of off-site construction of a field on the adjacent Wampatuck School property during Phase 2 shall be reviewed and permitted by the Town Planner.

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

55. The legend on the Overall Operation and Maintenance (O & M) sketch included with the O & M Plan must be revised to include all drainage structures symbols.
56. The vegetated conveyance channels must be labeled on the O & M sketch included with the O & M Plan.

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

57. The Applicant has received approval from the Board of Selectmen, acting as sewer commissioners, permitting sewer allocations and connections. Prior to scheduling a preconstruction conference on the installation of sewer mains and appurtenances, the Applicant shall provide the Town Planner with the permits from the DPW for street openings and sewer to commence work on the physical connections to the town's sewer system. Installation of all sewer mains and appurtenances shall be performed according to the specifications of the DPW Sewer Division.
58. The Applicant has received approval from the Board of Selectmen, acting as water commissioners, permitting water allocations and connections. Prior to scheduling a preconstruction conference on the installation of water mains and appurtenances, the Applicant shall provide the town Planner with permits from the DPW for street openings and water to commence work on the physical connections to the town's water system. 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.
59. 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 (SWPPP). The SWPPP must be submitted to the Planning Board and Conservation Commission at least fourteen (14) days prior to any land disturbance;
  - c. A check to cover the cost of inspections to be conducted by the Town's consulting engineer. These shall include, at a minimum, inspections of Subdivision Rules and Regulations Section 9.2, for the roads, parking areas, stormwater management systems, water system, sewer system, new curbing and retaining walls and inspections of the environmental remediation. The specific amount shall be provided by the Planning Department 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 Department.

- d. A construction schedule including approximate dates for installation of erosion control and other site protection/stabilization, construction Phase 1, construction of Phase 2 and all applicable items in Subdivision Rules and Regulations 9.1.3; and
- e. A performance guarantee in a type and amount satisfactory to the Planning Board to guarantee construction of ways, installation of utilities and construction and installation of all other amenities required by the special permit and the Zoning Bylaw shall be required prior to construction. The Applicant shall submit a surety bond for an appropriate amount of the guarantee for Phase One. The Planning Board's consulting engineer shall review the amount of the guarantee to verify the surety amount is adequate. Additionally, the Applicant shall post such surety prior to Phase Two. The Planning Board's consulting engineer shall review the amount of the guarantee to verify the surety amount is accurate.

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

- 60. Within three calendar weeks prior to the Applicant's notification to the Town Planner that it intends to commence any work on the project site, a pre-construction conference shall be held with the Applicant, their representatives, their engineer, the site contractor(s), the Town Planner, the Conservation Agent, the Town Engineer, the Planning Board's consulting engineer and other representatives of the Town as the Board feels are necessary. A list of all contractor contacts, including names and telephone numbers, shall be provided to the Planning Board, DPW and Police Department. At least one telephone contact shall be available 24 hours per day in the event of an emergency.
- 61. The property line 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.
- 62. A stabilized construction entrance as shown on the Erosion & Sediment Control Plans (Sheets 50-59 of the Site 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.
- 63. Prior to the start of any work for Phase 2, the Applicant shall install temporary construction fencing at the boundary of the Wampatuck School property, remediation areas and as required under OSHA as described in 29 CFR 1926 and 520 CMR 14.00 and other federal, state and local laws. Any perimeter fencing shall be chain link fence with a privacy shield to secure the site.
- 64. During Phase 2 construction, there shall be a gate at Ermine Street to allow for Fire Department access.

### **Required During Construction**

- 65. 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 with no heavy exterior construction after sunset. No construction shall take place on Sundays or legal/federal holidays. Work to interior of buildings shall cease at 10 P.M. Construction work includes any operation of machinery and idling of vehicles.
- 66. The Applicant shall notify the Town 48 hours in advance of significant equipment and construction material arrival to the site which may cause a safety hazard or material disruption of



the public way such that a police detail is necessary to ensure safe passage. Any Police detail required is at the expense of the Applicant.

67. Police details may be required for construction access to the site. The Applicant shall not allow any large construction equipment or trucks to stage or idle on public roads and shall not allow such equipment or trucks to idle onsite prior to 7:00 AM.
68. Construction activities on the site shall conform to Town of Scituate General Bylaws.
69. Construction activities shall be conducted in a workman like manner at all times. Blowing dust or debris shall be controlled by the Applicant through stabilization, wetting down or other proper storage and disposal methods.
70. No use of hydrants on-site or on adjacent roads off-site is allowed for construction use. A hydrant is available at the water treatment plant for construction use.
71. The following roads shall not be travelled on by heavy construction equipment including haul trucks and construction delivery trucks: Booth Hill Road, Mann Lot Road, Mann Hill Road, Tilden Road west of the Road "F" site access, Front Street north of Brook Street, Greenfield Lane, Meeting House Lane, Vinal Ave., Captain Peirce Rd., Curtis Street, Arborway Drive, Hollett Street, Stockbridge Road, Marion Road, Marion Road Ext., Ermine Street and Longley Road. The Applicant shall provide the Town with the routes construction traffic will use so that if a safety hazard or material disruption of the public way impedes safe passage, a police detail would be obtained by the Applicant at its expense.
72. All earth moving/disturbance operations shall only occur while erosion and sedimentation control measures are in place and approved by the Town Planner and/or Conservation Agent. 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.
73. No parking or unloading on Hatherly Road, Tilden Road or Turner Road shall be permitted during construction. Construction vehicles shall use the designated construction access which shall be appropriately signed.
74. In an effort to reduce noise levels, the Applicant shall keep all equipment that emanates sounds from the structures or site in proper working order through regular maintenance.
75. Stockpiles must be located outside of the 100 foot buffer of a wetland resource area and be protected with erosion control as identified on the plans.
76. 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.
77. Construction of the proposed roads, site drainage system, water system and sewer system shall be supervised by a registered professional engineer who shall certify in writing to the Planning Board at the completion of each phase of the project that the roads, drainage system, sewer system and water 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.

78. After tree clearing and final grading along site boundaries, the 60 foot buffer zone must be replanted as soon as possible within appropriate growing seasons. Plants must be monitored for three years from time of planting with a documented survival rate of 90% provided to the Board at the end of the period.
79. Blasting, if necessary, shall obtain all the necessary permits and meet all of the requirements of the Scituate Fire Department.

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

80. A set of master 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, review and approval by the Planning Board will be required.

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

81. A copy of the recorded deed restriction for open space by use of the residents shall be provided to the Town Planner which will be contained in the Master Deed. The occupancy for the four model homes and sales office may be issued prior to recording the master deed restriction.
82. The plan depicts common open space for use of its residents. In accordance with Scituate Zoning Bylaw Section 510.4K, this common open space shall be kept in an open or natural state and shall not be built for residential use or developed for accessory uses such as parking and roads. This restriction shall be incorporated in the Condominium Trust in perpetuity. The Condominium Trust shall be referenced in all deeds as dwellings are conveyed. This restriction shall further provide for maintenance obligations upon the Condominium Trust to maintain the said common open space in a manner that will ensure its cleanliness, proper maintenance of drainage and sewer pipes and the like. This condition of approval confers upon the Town of Scituate the right to enforce this common open space restriction.
83. The draft Master Deed that was provided to the Planning Board contained a provision granting an easement for the benefit of the Town of Scituate concerning roadways, sewer, stormwater facilities and the like. The final Master Deed which is filed with the Land Court shall contain the approved language concerning this easement for the benefit of the Town of Scituate.
84. The Applicant has provided the Planning Board with a Condominium Trust document governing Seaside of Scituate. The Applicant shall file the final executed Condominium Trust document, which document shall not vary materially from the document provided to the Board, with the Land Court. The filing shall occur prior to the first occupancy permit (excluding four model homes and sales office). The Applicant shall provide the Town Planner and Building Inspector with the duly filed document.
85. Seaside at Scituate contains a component that is intended for occupancy by persons 55 years of age or older in accordance with the Federal Fair Housing Act, 42 USC Section 3601 et. Seq., as amended (the "Act"), together with implementing regulations, 24 CFR Part 100, subpart E, as amended (the Regulations"). The Master Deed contains restrictions regarding age limitation (the "Restrictions") consistent with the Act and Regulations. The Applicant shall file the final executed Master Deed with the Land Court, which shall contain the Restrictions. The filing shall occur prior to the issuance of the first occupancy permit (excluding model homes and sales

office), and the Applicant shall provide the Town Planner and Building Inspector a copy of the recorded document.

### **Administration**

86. All time periods referenced in this document for completion of conditions shall be tolled in case any appeals are taken.
87. This Special Permit shall run with the land and shall be void if it is not recorded at the Registry of Deeds within 90 days of expiration of the appeal period or such extension of that time period granted by the Planning Board following approval of this Special Permit. The Applicant shall provide proof that the Special Permit was recorded to the Planning Board.
88. The Planning Board may in its discretion waive or modify conditions of this special permit at a duly called meeting of the Board if the Board determines that such waiver or modification is insignificant and does not materially adversely affect the purpose of this special permit decision.
89. A Memorandum of Agreement with the Applicant and Scituate Board of Selectmen, that will be enacted within 30 days of expiration of all municipal appeal periods, will provide for limited funding to select community projects enhancing the town as a whole, that may include a comprehensive water and wastewater capacity study that will develop a detailed methodology for the assessment of the Town's water and wastewater systems to meet new capacity requests while preserving and enhancing the performance of the systems for existing users.

**APPENDIX A**

Sheets to be recorded with the Land Court:

Sheets 1 of 70, 3 of 70, 5 of 70, 49 of 70, 50 of 70 and 59 of 70 of the Residential Cluster District Special Permit Plan shall be recorded at the Registry of Deeds or Land Court.

**Vote:**

Based on the Findings of Fact and the evidence and information provided by the Applicant and obtained through the public hearings, the members of the Planning Board hearing this application voted to approve the Residential Cluster District Special Permit for Seaside at Scituate off of Hatherly and Tilden Roads with the conditions noted above.

5/10/18

Date

SCITUATE PLANNING BOARD

Splo P. D'Almeida

Ana Burbano

William Schneider

Richard W. Taylor

This decision was filed with the Town Clerk on 5/17/2018  
date

Appeal of this special permit may be made pursuant to M.G.L. Chapter 40A, Section 17, and shall be filed in a court of competent jurisdiction. Proof of that filing shall be provided to the Town Clerk within twenty (20) days of the date of the filing of the decision with the Town Clerk.

This special permit will not become effective until such time as an attested copy of this decision has been filed with the Plymouth County Registry of Deeds, after the expiration of the appeal period of twenty (20) days.

The Planning Board certifies that it has complied with all statutory requirements of MGL Chapter 40A, Sections 9 and 11, and will file copies of this decision with the Town Clerk. The Planning Board further certifies that it has taken into consideration all testimony rendered at the Public Hearing, the comments and suggestions of other boards which have reviewed and made comments on the plans