

TOWN OF SCITUATE



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Planning Board

**Site Plan Administrative Review, Special Permit for a Mixed-Use Building and Stormwater Permit
in the Village Center and Neighborhood District-Greenbush Driftway Gateway District-New Driftway Transit Village Subdistrict (VCN-GDG-NDTV)**

61 New Driftway

Decision: APPROVED with Conditions

- Applicant:** Susan Tedeschi, Personal Representative of the Estate of John Kevin Tedeschi, Plymouth Probate and Family Court No. PL23P1603EA as successor in interest to John K. Tedeschi
- Address:** PO Box 361, Scituate, MA 02066
- Owner:** Susan Tedeschi, Personal Representative of the Estate of John Kevin Tedeschi, Plymouth Probate and Family Court No. PL23P1603EA as successor in interest to John K. Tedeschi and James F. McInnis
- Address:** PO Box 361, Scituate, MA 02066
- Request:** Approval of Site Plan Administrative Review, Stormwater Permit and Special Permit for a Mixed-Use Building in the Village Center and Neighborhood District-Greenbush Driftway Gateway District- New Driftway Transit Village Subdistrict (VCN-GDG-NDTV) under Scituate Zoning Bylaw Section 580, 750, and 770
- Date:** November 15, 2023
- Location:** 61 New Driftway, Scituate, MA 02066
- Assessor's Map:** 53-3-2A
- Zoning District:** Village Center and Neighborhood District- Greenbush Driftway Gateway District- New Driftway Transit Village Subdistrict (VCN-GDG-NDTV)
- Hearing Dates:** September 22, 2022; November 17, 2022 (no testimony taken immediate Continuance); January 12, 2023; March 23, 2023; May 25, 2023; July 18, 2023 (no testimony taken- continuance after Board informed of death of Mr. Tedeschi);

September 28, 2023 (no testimony taken- immediate continuance); November 9, 2023

Members Hearing Special Permit Application: Patricia Lambert, Stephen Pritchard, Rebecca Lewis, Ann Burbine and Robert MacLean.

Decision: **Approved with conditions by a vote of 5-0.**

Background:

Susan Tedeschi, Personal Representative of the Estate of John Kevin Tedeschi, Plymouth Probate and Family Court Docket No. PL23P1603EA as successor in interest to John K. Tedeschi (the "Applicant") is proposing a project consisting of one mixed -use building in the Village Center and Neighborhood District-Greenbush Driftway Gateway District-New Driftway Transit Subdistrict at 61 New Driftway, Scituate, Massachusetts. The existing pet care facility with paved driveway and fenced dog area will be removed and site will be reconfigured and reconstructed to accommodate the site improvements and new uses. All of the proposed work, including the site work, new building, site infrastructure, site improvements and new parking are collectively referred to herein as the "Project".

The property is composed of one parcel of 34,727 sq. ft. all of which is upland. The lot has frontage and access off of New Driftway as well as Old Driftway aka Driftway.

The site is located in the Village Center and Neighborhood District – Greenbush Driftway Gateway District-New Driftway Transit Village Subdistrict. (VCN-GDG-NDTV). The resultant zoning in effect is the Village Center and Neighborhood District – Greenbush Driftway Gateway District-New Driftway Transit Village Subdistrict Section 580, 750 and 770 of the Scituate Zoning Bylaw.

In the VCN-GDG-NDTV District mixed-use buildings are permitted building types and the use is allowed. Twenty-two (22) residential rental units are proposed in the mixed-use building (MUB) The density of 16 units per acre by right and 36 units per acre by special permit is being met as 12.75 units (rounded to 12) are allowed by right for the 34,727 sq. ft. site and 28.7 units (rounded to 28) are allowed by special permit. A density bonus of ten (10) units is requested as there will be twenty-two (22) residential units on -site and 6,450 sq. ft. of office/retail space is proposed in the MUB.

The proposed project will have one access point off of New Driftway. There will be one 12-foot-wide lane for access and one 12-foot wide lane for egress for a 24-foot-wide driveway. There will be one 12-foot-wide one-way egress going out to Driftway (Old) from the site.

The MUB has twenty-two (22) residential units. There will be thirteen (13) one-bedroom units, eight (8) two-bedroom units and one (1) three-bedroom unit on floors one through four for a total of thirty-two (32) bedrooms for the project. There will be five affordable units for the project. Forty - one (41) exterior parking spaces are provided including two (2) handicap accessible spaces to the east of the MUB. Three (3) electric vehicle parking spaces are proposed to the east of the MUB. The project requires forty (40) parking spaces and 41 have been provided. Parking is per the bylaw

at 1 space per one (1) bedroom unit, 1.5 spaces per two (2) bedroom unit, two (2) spaces per three-bedroom unit and 1 space/500 sq. ft. of retail/office.

The Project will be serviced by Town water and sewer. The water and sewer divisions have indicated their requirements with respect to lines and utility betterment fees. The proposed stormwater management system consists of a piped drainage system leading to underground leaching chambers for the parking lot and the roof of each building. The rate and volume of post development conditions meets or does not exceed pre-development conditions for the 1, 2, 10, and 100 year 24-hour rain events. A water quality Best Management Practice (BMP) treats the first 1" of runoff as required and 80% Total Suspended Solids (TSS) are required to be removed. Massachusetts Department of Environmental Protection (MA DEP) Stormwater Management Regulations and the requirements of the Town of Scituate Stormwater Bylaw and its regulations have been met to the extent practicable for this redevelopment site.

The Applicant submitted a Stormwater Permit Application, Town of Scituate Stormwater Bylaw (Section 32050) & Stormwater Regulations for the Proposed Mixed-Use Development at 61 New Driftway by Morse Engineering Co., Inc. stamped by Gregory J. Morse, P.E. This report and the accompanying Site Plan, Proposed Mixed-Use Development for 61 New Driftway, Scituate, MA were reviewed by the Town's consulting engineer, John Chessia, P.E. of Chessia Consulting Services LLC, who submitted detailed comments to the Planning Board. In response to these comments, the Applicant provided revised reports and plans which, after further review by the consulting engineer, were found to address the comments and recommendations or could be conditioned.

A Density Bonus is required for the project as the density per acre exceeds the by right allowed. The Applicant proposes to construct a continuation of the concrete sidewalk (approximately 141 linear feet) to Town of Scituate standards from the end of the 61 New Driftway property on New Driftway to the easterly driveway at the SkySail property with a handicap ramp and landing to the radius of the granite curb on the east side of the driveway at an approximate cost of \$44,500.00. The Applicant proposed an easement of the existing walk on Old Driftway as a density benefit; however, as it is a pedestrian frontage zone the Board opined it was not a density bonus benefit and the Applicant will still do the easement. As a second public benefit, the Applicant has agreed to provide a contribution of one hundred and thirty-three thousand dollars (\$133,000.00) to be used toward repair, maintenance, reconstruction and associated engineering of the pier in the Driftway Conservation Park which needs repair and maintenance and is identified in the Town's Open Space and Recreation Plan or other project as re-vote and approved by the Board. The Applicant has also agreed to contribute \$10,000.00 to fund traffic and pedestrian improvements/studies in the Greenbush/Driftway area.

Procedural Summary:

An application for a Site Plan Administrative Review and a Special Permit in the VCN-GDG-NDTV Subdistricts and Stormwater Permit was filed with the Town Clerk on July 21, 2022. A Public Hearing on the Special Permit was duly advertised and notices sent to all abutters in accordance with M.G.L. Chapter 40A. The Public Hearing was opened on September 22, 2022 with testimony taken. This was an in-person meeting with a hybrid ZOOM option under the open meeting law. The public

hearing was continued to November 17, 2022, January 12, 2023, March 23, 2023, May 25, 2023, July 18, 2023, September 28, 2023 and November 9, 2023 when the public was closed and the Site Plan Review and Special Permit and Stormwater Permit were approved with conditions. No testimony was taken on November 17, 2022 and September 28, 2023. At the July 18, 2023 meeting no testimony was taken and the Applicant's attorney indicated the Applicant had passed away and they would need to wait for the probate process to be completed. All members were at all sessions where testimony and evidence were presented or filed a Mullin Rule Certification for missing only one meeting. The public hearings in 2022 and 2023 were all in person and with remote participation by ZOOM available due to COVID – 19 procedures under the open meeting law.

Hearing Summary:

When the public hearing was opened on September 22, 2022, Attorney Steve Guard was present along with the Applicant, John Tedeschi, Gregory Morse, the applicant's engineer, Jamie Kelliher the applicant's architect and James McInnis co-property owner. Karen Joseph, Town Planner and Shari Young, Planning Board Assistant were present.

An overview of the project was given. The MUB proposes 25 units and 4,200 sq. ft. of office/retail space with access from Old and New Driftway. The 34,727 sq. ft. lot has a pedestrian frontage zone on both Old and New Driftway requiring sidewalks and ground floor commercial. The amenity space would be a roof top deck, an outdoor picnic area and outdoor patio. Connections to public water and sewer are proposed and there will be an on-site subsurface drainage system. The building is a 4-story building with projection for the headhouse above. The Applicant maintained the fifth-floor penthouse would not be visible.

Some of the board was concerned with residences being on the ground floor. It was indicated that the zoning required 60-foot setback for the residential units from the street line of New and Old Driftway needs to be shown. There was discussion on the roof. The Applicant would like a covered portion of the roof top deck amenity space. The Board indicated that the zoning requirement for penthouses and height had to be met.

At the November 17, 2022 hearing session, there was an immediate continuance with no testimony taken.

At the January 12, 2023 hearing session, Attorney Guard, Mr. Morse, Mr. Kelliher, Mr. Tedeschi and Scott Thornton of Vanasse and Associates were present. Mr. Morse gave an update; reduced number of units to 22, added EV spaces, revised ADA ramps for connecting walks, reduce grade at Old Driftway egress to 10 feet at 2%, increased amenity space and added a transformer location.

Scott Thornton addressed traffic. He said the peer review requested a conventional traffic assessment which was done with counts, trip generation and data collection. They are working through the peer comments.

Mr. Kelliher discussed the updated architectural renderings. He indicated the first floor has been revised to have the residential now 60 feet from both street lines, the penthouse has been removed,

the building height has not changed and they are still proposing a rooftop amenity space with a covered area.

Kirsten Braun and John Chessia were present for the town. Ms. Braun indicated the applicant is updating their trip generation, she believes the parallel spaces should be employee only, the level area off of Old Driftway should be 25 feet at 2% versus 10 feet so that a car can be on level ground, there is an issue with the site driveway on New Driftway as it is wedged between two other driveways on the opposite side of the street and will create traffic conflicts and suggests moving it easterly. As the area is rapidly building out, she suggests a traffic monitoring study within 6 months of 90% occupancy. The Board thought that moving the driveway was good. There was concern on the parallel spaces as the Applicant would like them for the lower units. Bollards were asked to be placed at the walk on the east side of the building so traffic wouldn't jump the curb. Issues with the retaining wall and stairs will be reviewed.

Mr. Chessia highlighted several issues including: there is too much impervious in the front yard, the planting buffer is not big enough, 10-foot crosswalks are required, not enough street trees, more survey is needed at the property boundaries, a density bonus will be required, a special permit will be needed as the building is over 100 feet long, a loading area is needed and the parking is needed for the gross floor area. Some members opined the building is too big with too much mass and scale, more clarification is needed on the top floor and an explanation is needed for why the standard for impervious area cannot be met in the front yard. It was indicated there is a 10-unit density bonus required and the Board is suggesting \$17,500 per unit. The Applicant indicated they wanted to look for a public amenity option. The project was referred to the Design Review Committee. The architect was uncertain on the direction the board was giving him. The Board said the front should be softened and explanations needed to be provided why the standards cannot be met.

At the March 23, 2023 hearing session, Steve Guard, Greg Morse, Jamie Kelliher, John Tedeschi and Scott Thornton were present for the Applicant and John Chessia and Kirsten Braun were present for the Town. Mr. Kelliher reviewed the new architectural plans including the gables, cupola and setback/stepback requirements, transom windows, balconies and the arcade moved out of right of way. Accessibility was reviewed and it was indicated that 18 condensing units would be on the roof and probably more. Water meter and gas meter locations have not been shown and will be conditioned that they need to go back to the DRC for review of all mechanicals. Applicant indicated setback/step back was .4% over on New Driftway and 7.4% over on Old Driftway. Mr. Guard said DRC was amenable to those numbers for the design of the building. Ms. Lambert and Ms. Burbine opined the building was still too big despite being a nice-looking building. Mr. Pritchard questioned the asymmetrical balcony balance. Members were concerned with roof furniture and it has not been designed yet as storage and wind are factors to consider. There was concern on the headhouse design. Density bonus discussed for 10 units. Mr. Guard offered \$15,500 per unit prior to occupancy permits. The Board said it is when building permits are issued. He indicated there would be 250' of new sidewalk. It was opined as not a density bonus as it is required for the pedestrian frontage zone. They indicated the walk would stop at the end of their property. An easement will be provided for the Town walk on the Applicants' property. Ms. Joseph recommended the Board take the density bonus under advisement as she was meeting with the town Administrator to discuss additional sidewalk and the easement. Board asked where \$15,500 per unit came from as it has been

using \$17,500 as a number. Affordable units discussed at 80% AMI for the 5 units. Water and Sewer study comments not received yet.

Dead end parking was a concern for the Board. Applicant's traffic engineer, Scott Thornton, indicated circulation for parking was fine, but resident parking must be signed. He concurred with the parking monitoring study and thought that 5 days was excessive and preferred 1. Kirsten Braun opined at dead end parking there is usually a bump out to provide for maneuvering. She opined counting traffic for 5 days is reasonable to obtain an average and to be representative of what is really happening on the site. The Board opined it has to be a minimum of 2 days in the middle of the week.

Waivers discussed. Board is okay with setback/stepback. 25% impervious in the front yard – Mr. Guard said the bylaw is difficult to manage with the setback, sidewalks, and access points. Mr. Morse said the site has 28.6% because of the existing sidewalks and indicated the patio and walkways at the front are pervious and the access and parking are impervious. As designed the site is 45%. The Board did not support 45% as there are no compelling arguments. It was suggested the Applicant come back with reasons why they need a higher number. Cross walk waiver - Applicant does not want a 10-foot crosswalk with a 5-foot sidewalk. Low Impact Development – asking for a waiver for the buffer zone. Want 11' buffer where 15' is required. Drainage was discussed. More information is needed for the pervious pavers. Construction runoff must be managed.

At the May 25, 2023 hearing session, Steve Guard, Greg Morse, Jaime Kelliher and John Tedeschi were present for the Applicant. John Chessia was present as the Board's consulting engineer. Mr. Guard indicated that there were plan changes since the last meeting and the excerpt from the Zoning Bylaw prepared by Mr. Morse shows the project meets the zoning requirements and want to focus on the Summary of Issues. A waiver is sought for the building height and setback/stepback requirements for .4% in one plane and 7% in the other. The alternative would be a blockier building and the Design Review Committee recommended it. The Board was in favor of this waiver. The Applicant is withdrawing their waiver for the crosswalk width. A special permit is needed for a higher density than allowed by right. 12 units are allowed by right and 22 are proposed thus there is a density bonus of 10. Density bonus benefits offered were an easement for the existing walk and building the sidewalk for the pedestrian frontage zone. An easement is required and the sidewalk is required so it is not a density bonus. Continuing the sidewalk from the end of the property on New Driftway to the Drew driveway would be beneficial and DPW and the Town Administrator would look favorably on that. Mr. Morse opined it is approximately 120 linear feet. Mr. Guard said the applicant would be willing to do that as part of the public benefit. A cost estimate will be determined for this portion of the public benefit. The rest of the public benefit is proposed as a cash donation to the Town for a project in Greenbush at \$17,500 a unit subtracting the cost of the sidewalk. The Board and the Applicant agreed to this proposal with definitive numbers in the decision.

The Board discussed the special permit needed for the building to be over 100 feet in length. The chair pointed out that it has been commented that the building is too big on a small lot despite being a nice-looking building. Too big is not just about height, but also length and width. She asked for a

straw vote of the board which was 3 in favor and 2 opposed. Mr. Guard asked for guidance on what part of the bylaw is not being complied with. He indicated it is only 8 feet.

Other issues were discussed. The Select Board will need to act on a water main easement after the project is approved. A residential lounge extends into the 60' setback area. The Board can waive this requirement for this one area and four of the members found this acceptable and one had no comment. Comments on the Landscape Plan were made including it was not great, but acceptable and the Board will want to make sure the trees are living at the end of the guarantee period. A backup/turn area was added for parking maneuvering along New Driftway. After discussion, the Board felt it was okay for it to be in the setback area. There was concern for the distance required for residents to enter the building. The architect indicated it could be solved by adding a door from the commercial corridor to the residential lounge and the Board requested the change. Residents can also go in the main door and it would be a keyed access only. Gross floor area would be used for parking with all non-residential space excluding the non-habitable space included. It was indicated there was over 20% amenity space and the roof terrace is setback 5 feet from the building wall with a 4 foot perimeter fence. The area to be shown on a plan. The Board was satisfied with the amenity space.

It was indicated that the units will all be rental. There are 5 affordable units all at 80% AMI. Metro West Collaborative will be the agent and there will be a waiver for the information to be submitted after the project is approved. Plans show 23% impervious in the front yard. The Applicant is aware of the pervious paver maintenance requirements (vacuuming). All lighting is down lighting. The plans do not show bollards at the edge of the parking, but curb stops. Mr. Guard indicated the waiver for the width of the building was the sticking point. The two opposed indicated they may change their vote.

At the July 18, 2023 hearing session, the Board was officially informed of the death of the sole Applicant, John Tedeschi. Attorney Guard indicated the probate process was started; however, there is no personal representative yet. The hearing was continued with no testimony taken.

At the September 28, 2023 hearing session, there was an immediate continuance with no testimony taken as the personal representative has not been appointed yet.

At the November 9, 2023 hearing session, attorney for the Applicant, Steven Guard, indicated the personal representative of Susan Tedeschi has been appointed by the probate court. It was indicated all of Mr. Chessia's comments had been addressed. Mr. Morse provided a revised set of plans with a new landscape architect. He indicated all of the comments have been addressed. Ms. Joseph agreed that all of the comments have been addressed or could be conditioned. Ms. Lambert indicated a 4/5 voted was needed. The Board reviewed and approved the draft Findings of Fact and Conditions with minor changes and a vote of 5-0 approved the project.

Additional Public and Town Department Input:

William Branton, of the Scituate Sewer Division, commented that he agrees with all the recommendations from the third-party sewer study and would like them incorporated including

cleaning and closed-circuit television inspection of the existing sewer lines between STA 2+91 and STA 0 + 05E New Driftway. He had the following comments: connection fees are \$16,000 per unit, with 1-bedroom apartments considered as a 1/2 of a unit, for 21.5 sewer units consisting of 22 residential units (one 3 bed, Eight 2 bed, Thirteen 1 bed apartments) and seven retail spaces with an anticipated fee of \$344,000. Additional fees would be owed if the project were condominium versus rental; need external cleanout within 10 feet of the building; proposed construction entrance on top of sewer lateral so sewer line needs to be cut and capped so existing cleanout near property line is removed to prevent damage to lateral; sewer cleanouts need metal covers; permit costs are in addition to connection fees.

Kevin Cafferty, DPW Director indicated the DPW will not waive crosswalk configurations, widths or lengths. All crosswalks need to comply with Town Standards and the MUTCD.

Mark Cloud, Assistant Water Superintendent, indicated each unit at 61 New Driftway will require a separate water meter and Water Department Regulations must be met. He indicated the old water service should be abandoned at the main, Poly CTS for water service with tapping sleeve, ductile iron fire line with tapping sleeve and excavatable flowable fill for trench in New Driftway. Eric Langlan, Water Superintendent, agrees with all the recommendations in the water study and would like Flow Hydrant #1 to be replaced with a new Mueller hydrant.

DPW Engineering Division commented that flowable fill will be required for any excavation in New Driftway; the driveway intersection distances shall conform to AASHTO standards; the existing water service should be cut and capped; proposed retaining wall and staircases must be out of the public layout, sidewalk materials should be listed on the plan with minimum sidewalk widths to be 5 to 6 feet including the vertical granite curb, curbing types need to be identified, and verify site distances as there will be turning movements into the newly developed Drew property.

The Traffic Rules and Regulation Committee wanted all driveways labelled on the plan, stairs and walls removed from the public right of way, the driveway moved further east away from the traffic light, they would like Country Way and Stockbridge Road included in the traffic study, they think a fire lane should be in front of the proposed building, there needs to be a delivery area, the exit onto Old Driftway is too steep and it should be 25 feet at 2% or less and snow storage areas need to be designated for the site and legal offsite snow removal areas are needed as well.

Mark Donovan, Deputy Fire Chief, asked for turning radius based on ladder truck be added to the plan; the hydrant at the entrance shall be replaced due to its age; they would like the fire department standpipe reduction caps to be threaded 2.5-inch NST to 1.5-inch NPSH and the exterior fire department sprinkler connection shall be 4-inch Storz. The Fire Department is satisfied with the access provided.

Weston and Sampson provided the water and sewer studies for the Applicant. Eric Langlan of the Water Division, indicated the Water Division agrees with Weston & Sampson water study for 61 New Driftway and would like to see the recommendations incorporated. William Branton of the sewer division indicated that he agreed with the recommendations in the sewer study and would like to see them incorporated.

The Design Review Committee recommended the Planning Board move ahead with the Special Permit process contingent upon review of the detailing of the exterior materials with emphasis on the brick and trim and review of the locations of the utilities and mechanical equipment prior to a building permit being issued. They would also like to review any signage. They indicated the front portico along New Driftway will be revised to not encroach past the setback line. They felt that along New Driftway the height in non-conforming by 0.4%. They feel it is negligible and acceptable per the conditions set forth in the Zoning Bylaw. They felt along Old Driftway that the Applicant moved the gable forward /parallel to the street for aesthetic reasons and to shield some of the roof decks and utilities beyond. The average height is 33'-0" for 7.4% of the Old Driftway façade versus 30'-0" in the 12.5 to 37.5-foot zone. The DRC felt the design made sense in context with the building and recommended moving forward. The elevator penthouse and a cupola exceed the maximum height of 40 feet; however, they are exempt from height per Section 750.5A. 2.C. They felt the Applicant had tried to reduce the size and location of the elevator penthouse to reduce its impact.

At the January 12, 2023 public hearing session, Mr. Bjorklund opined that traffic should have been studied prior to zoning changes and the Board should give direction if the standards cannot be met. He opined the building is gorgeous compared to what is out at Driftway.

At the May 25, 2023 several community members spoke in favor of the project including Mr. Richard, Ms. Susan Dauwer, Mr. Shawn Harris, Mr. John Barry, Mr. Steve Bjorklund and Mr. Richard Taylor. Every member of the audience present was in favor of the project.

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.

1. On July 21, 2022, the Applicant, John Tedeschi and Owners John Tedeschi and James McInnis filed an application for a Special Permit, Major Site Plan Review and Stormwater Permit for a Mixed-Use Building project in the Village Center and Neighborhood District under Scituate Zoning Bylaws Section 580, 750 and 770. The Application included, but is not limited to, the following:
 - a. Cover letter dated July 20, 2022, Application Forms including attachment A-F and Stormwater Permit form and locus deed;
 - b. Filing Fees and Abutters' List;
 - c. Site Plan, Proposed Mixed-Use Development, 61 New Driftway, (Assessor's Parcels: 53-3-2A) Scituate, MA dated July 13, 2022 by Morse Engineering Group, Inc. consisting of 8 sheets;

- d. Architectural rendering and Architectural Plans for New Mixed-Use Building, 61 New Driftway, Scituate, MA by Axiom Architects dated July 2022 consisting of Sheets A101 – 107 Floor Plans and Building Elevations.
 - e. Stormwater Permit Application – Town of Scituate Stormwater Bylaw (Sec.32050) & Stormwater Regulations for Proposed Mixed-Use Development 61 New Driftway, Scituate, MA, Assessor's Parcels: 53-3-2A dated July 14, 2022 by Morse Engineering Co., Inc.
2. The Property that is the subject of the Application is composed of one parcel: Parcel is lot 53-3-2A and it is 34,727 sq. ft. all of which is upland. The parcel has frontage and access off of New Driftway, a public way. The parcel has frontage on Old Driftway, a public way. The Property is currently improved with an existing commercial structure.
 3. The Project is located in the Village Center and Neighborhood (VCN) Zoning District, Greenbush-Driftway Gateway District (GDG) and the New Driftway Transit Village Subdistrict (NDTV) – VCN-GDG-NDTV.
 4. The Zoning Bylaw in effect for this project is the bylaw approved by the Scituate Annual Town Meeting on 9/19/2022 and the Attorney General on 12/16/2022 and posted to the website in December 2022.
 5. The Project proposed by the Applicant consists of twenty-two (22) residential units and 6,450 sq. ft. of general office/retail space in one building. The Mixed-Use Building (MUB) will have 6,450 sq. ft. of retail/office space on the first floor as well as twenty-two (22) residential units. The MUB will have one (1) three-bedroom unit, eight (8) two-bedroom units and thirteen (13) one-bedroom units on the first, second, third and fourth floors. There is a total of 32 bedrooms. There will be five (5) affordable units.
 6. The MUB building is a 4-story building with a fifth story for amenity space and the elevator/stairwell projection. The building has a maximum building height of 39'-8" to the mid-point of the roof from the average grade plane which is less than the maximum height of 40' as set forth in the Scituate Zoning Bylaw.
 7. There are forty-one (41) total exterior parking spaces provided. This includes two handicap parking spaces on the east side of the building. The project requires forty (40) parking spaces. Parking is governed by Section 760.8 of the Scituate Zoning Bylaw for parking in Mixed-Use Districts (Table 2) and requires 1 space for a 1-bedroom unit, 1.5 spaces for a 2-bedroom unit and 2 spaces for a 3-bedroom unit in a multi-family or mixed-use building as the site is in the VCN District. General office/retail in a mixed-use building requires 1space/500 gross square feet.
 8. Section 760.7 does apply as the proposed use is mixed-use and residential in the VCN.
 9. The property at 61 New Driftway does require a Pedestrian Frontage Overlay Zone per Section 580.2 of the zoning bylaw. Both New Driftway and Old Driftway require Pedestrian Frontage Zones. Buildings fronting on the designated street have ground floor limitations including: ground floor areas reserved for retail, restaurant, publicly oriented personal services, office,

repair or municipal services; residential and other non-residential uses are allowed to have access at the street line by an entrance that leads to the upper floors; residential and non-residential uses not oriented to the public access are allowed on the ground floor when the use is within a building with frontage on the street and set back a minimum of 60 feet from the street line and the residential use will not have an adverse impact on the continuity and vitality of the pedestrian-oriented street front use. The Project meets these requirements as the Board is of the opinion that there is adequate retail/commercial space on the first floor and the 60-foot requirement has been met.

10. In the VCN-GDG-NDTV, a mixed-use building is an allowed use by right per Section 420 of the Zoning Bylaws and an allowed building type per Section 580.3 with the Design Standards of Section 750 of the Zoning Bylaw.
11. The base residential density in the VCN-GDG-NDTV subdistrict per Section 580.4 of the zoning bylaw for a mixed-use building is sixteen (16) units per acre by right and thirty-six (36) units per acre by special permit. The proposed Project has 12.76 units (rounded to 12) that are allowed by right and up to 28.7 units are allowed by special permit. Twenty-two (22) units are proposed on-site which requires a density bonus of ten (10) units. A special permit is required for twenty-two (22) units which needs to include certain Public Realm Improvements are made by the Applicant that will provide benefits to residents and businesses in the project, the VCN district and surrounding area. Eligible public benefit improvements can include on-site or off-site infrastructure improvements, streetscape improvements, open space improvements, amenities not otherwise required under Section 752, public parking spaces or additional affordable units beyond the number required for the development.

As a public benefit, the Applicant proposes to install a continuation of the concrete public sidewalk (approximately 141 linear feet) built to Town of Scituate standards from the end of the 61 New Driftway property on New Driftway to the easterly driveway at the SkySail property on New Driftway with a handicap ramp and landing tied into the radius of the granite curb on the east side of the driveway. The approximate cost of the public benefit improvement is \$44,500.00.

The Applicant proposed to grant an easement to the Town for the portion of the existing Town walk located on the Property along Old Driftway as a density benefit; however, as the existing walk is in a pedestrian frontage zone, the Board opined this does not constitute a density bonus benefit. Regardless, the Applicant has committed to still provide the easement.

As a second public benefit, the Applicant has agreed to provide a contribution of one hundred and thirty-three thousand dollars (\$133,000.00) to the Town to be used toward repair, maintenance, reconstruction and associated engineering of the pier in the Driftway Conservation Park, which is in need of repair and maintenance and is identified in the Town's Open Space and Recreation Plan. The Applicant shall provide such funds to the Town prior to commencement of construction. The funds will be placed in a Town account and the expenditure thereof shall require the approval of the Town Administrator, the Town Planner and Planning Board all of whom must concur. If all of the funds are not needed for the pier, the Planning Board shall be

requested to identify and approve a new purpose or use of the remaining funds in accordance with Section 580.4 C.2. of the Scituate Zoning Bylaw.

12. Section 580.4 also has minimum bulk standards for dwelling sizes. Two plus -bedroom units are required to have 900 sq. ft. of usable floor area. A one-bedroom unit is required to have 600 sq. ft. of useable area. The Project has one-bedroom units with a usable area of 685 sq. ft. minimum and the two-bedroom units with a usable area of 920 sq. ft. minimum, both of which meet the bulk standard.
13. No Public Realm Standards are required for this Project as no new streets are being created. The Project proposes to relocate one existing curb cut at 61 New Driftway and replace it with sidewalks and curbing in the public right of way. A pedestrian crosswalk is required by zoning and is provided.
14. Five (5) affordable housing units among the 22 residential units are required for the Project. The affordable units are distributed throughout the proposed Project. Three (3) affordable units are one-bedroom and two (2) affordable units are two-bedroom. All of the affordable units are designed so that the exterior is indistinguishable from the market rate units. The Applicant has indicated they will be using MetroWest Collaborative Development as the monitoring agent for the affordable units. No other information has been submitted for the affordable units at this time. The Applicant requests a waiver to allow the remaining information to be submitted after the project is approved. The affordable units must be able to count toward the Town of Scituate's Subsidized Housing Inventory and comply with the Local Initiative Program (LIP) 760.CMR 56.00.
15. The Applicant was referred to meet with the Design Review Committee ("DRC") and subsequently met with the DRC on several occasions to discuss this Project. The DRC recommended that "the Planning Board move ahead with the Special Permit process" in a recommendation memorandum to the Planning Board dated March 20, 2023. The DRC indicated "their recommendation is contingent on the review of the following prior to a building permit being issued: Detailing of exterior materials, with an emphasis on the exterior and trim details and review of the locations of the utilities and mechanical equipment." The DRC also noted that there should be a concerted effort to install the majority of the HVAC equipment on the roof and that the front portico should be revised so as to not encroach past the setback line in New Driftway. The updated architectural plans by Axiom Architects dated April 2023 show that the portico no longer in the setback. The DRC noted that the height along New Driftway is nonconforming by 0.4%, but they felt it was a negligible variation and acceptable in accordance with the Zoning Bylaw. The DRC also noted that the average height of the building along Old Driftway is 33'-0" for 7.4% of the façade versus the required 30'-0" in the 12.5' to 37.5' zone. The DRC felt the design made the most sense in context with the overall building and the main gable forward/parallel to the street shields some of the roof decks and utilities beyond. The DRC recommended approval of the current design to the Planning Board. The DRC noted the elevator headhouse and cupola exceed the maximum of 40' in building height, but they are exempt from the height standard per Section 750.5 A/2. C.; however, the Applicant did make an effort to reduce the size and the location of the elevator headhouse to reduce its visual impact. The design meets the criteria set forth in Section 750 of the Zoning Bylaws, with the exception

of the Building Setback/Height. Per the Bylaws, a building within 0-12.5' of the street shall be no more than twenty-five feet in height and between 12.5' and 37.5' shall be no more than 30' in height. The Planning Board agreed with the DRC that the small variances from the Bylaw requirements were offset by the improved overall design of the building and main gable. The overall height of the proposed MUB building is 39'-8" to the midpoint of the roof which is below 40'-0" and complies with the Bylaw.

16. A Mixed-Use Building (MUB), as is the proposed Project, includes Lot Standards and Design Standards found in Section 750.6 including:

- A minimum lot size is not required;
- Street frontage of 50' is required. The Project has 407.71' of frontage on New Driftway and Old Driftway combined.
- Lot depth is not required.
- The front yard build-to-zone (setback) is 0' minimum and 20' maximum. The Project has a 5.2' setback on New Driftway and a 17.5' setback on Old Driftway.
- Minimum side yard is 10'. The Project has provided 36.4'.
- Minimum rear yard is 20'. The Project has provided 131.2'.
- Outdoor Amenity Space Coverage required is 20% of the lot. The project has provided 20.5% per the plans as follows: i) there is a common yard of 1,450 sq. ft. on the north side of the building; ii) there is an outdoor dining terrace of 1,363 sq. ft. in the front on the Old Driftway side; iii) there is rooftop amenity space of 4,320 sq. ft. The total amenity space is 7,133 sq. ft. The outdoor amenity space provided is in accordance with the requirements of Section 752 of the bylaw is a Common Yard and Garden (PS) – Private Open Space and the Rooftop Terrace of Private Open Space (PS) and Publicly Oriented Private Space (POPS).
- The building height conforms to the height regulation set forth for an MUB at 39'-8" from the average grade plane to the average height between the eave and the ridge for any building with a pitched roof. The roof top elevator projection is not counted toward the height.
- The required minimum street facing wall width is 60' and the maximum width is 100'. Under Section 750.5 B. 2 d. Vertical Modulation and Articulation, no street facing building elevation can be wider than 100' without a Special Permit. The Project has provided a 108' width and therefore a special permit is required.
- A street facing entrance is required and has been provided.
- A maximum building footprint allowed is 20,000 sq. ft. The Project's first-floor footprint of 9,985 is less than the maximum amount.

17. A MUB has general design standards found in Section 750.5 including:

- More than one principal building is allowed on a lot if the building lot dimensional standards are met for each principal building individually. The Project only has one building on the lot.
- The Project's principal building and accessory structures are located outside of any required front, side or rear setbacks except as otherwise permitted.
- The Build to Zone Occupancy is measured as a percentage of the width of the street frontage. The Primary Build to Zone Occupancy shall be no less than 50% of the frontage width. The Project has 53% of the frontage width. Additionally, as the lot is a corner lot, the side façade facing the secondary street is placed in a Secondary Street Build to Zone. 75% of the Project is in the Secondary Build to Zone.
- The Project's lot is a corner lot. The front façade of the building is parallel to the street right of way line. The building is retracted to allow clear sight distance. The clear site triangle is utilized as outdoor amenity space.
- Mixed-use buildings taller than 25' are required to be setback or stepped back from the street right-of way. The Project is setback 5.2' from the front property line on New Driftway and 17.6' from Old Driftway. For setbacks 0 – 12.5', a maximum height of 25' is required. For buildings setback 12.5' to 37.5', a maximum height of 30' is allowed. According to the Applicant, the setback/stepback is exceeded by 0.4% on New Driftway and 7.4% on Old Driftway. The DRC felt this was acceptable and the Planning Board agreed as the overall design meets the criteria in the zoning bylaw.
- The scale of the Project is visually compatible with the site and with its neighborhood.
- The Zoning Bylaw building articulation standards have been met by the Project with a building that is greater than 50' in width designed to read as a series of smaller buildings with varied articulation.
- The Project's street facing building elevation facing New Driftway is 108' exceeding the 100' standard. Therefore, a special permit is required.
- Horizontal modulation and articulation are required as the Project's building is 3 stories and taller. The front of the building is visually articulated over the four stories with overhangs, balconies, awnings, canopies and prominent cornices. The rear of the building is visually articulated over four stories with balconies and an overhang on the first floor. The attic has a stair well, cupolas and railings for visual articulation and function.
- Street facing building facades are required to provide surface relief through dormers and door canopies. The Project has provided door canopies.
- Façade transparency is required for mixed use buildings. Windows shall be evenly spaced along the façade, windows shall be low reflectivity glass, the façade glazing shall fall between the height of 2' and 12'. Façade glazing requirements are only applicable to front facades facing a street right-of-way. The Project meets the requirements with

window spacing, façade glazing occurring on the first floor between two to twelve feet and low reflectivity glass.

- The Project roof pitches for a majority of the building are 10:12 and 11:12 with the shed roof is 3:12 where 2:12 is the minimum. The hip roof is proposed at 10:12 and 6:12 which meet the 3:12 minimum requirement. The project meets the required roof pitches.
- Exterior treatments are provided by the Project. Exterior treatments will be synthetic materials intended to provide the look and character of traditional building materials i.e. cedar shakes and clapboard. The exterior will be a light color. There will be corner boards, crown molding at windows and other trim work. The roof will be architectural asphalt shingles in a medium dark brown for the sloped roof and dormers and the flat roof area will be EPDM or T.P.O. roofing in gray or black. The trim will be white PVC. The balcony rails will be white PVC and the decking will be composite with the look of wood. Gutters and downspouts will be present. The windows will be operable. Architectural elements are continued from the front to the side of the building. The proposed building has textures and patterns. The Project is visually compatible with the surrounding buildings and exterior treatments provide character to the Project, traditional materials are provided that continue around the sides of the Project visible from the street.

18. Development site standards include (Section 750.8) are met including:

- The Project site consists of one building;
- The Project site does not include any existing or proposed right-of-way;
- The Project's mixed-use building is a permitted building type in this district;
- A minimum of 50 feet of frontage on a public or publicly accessible street providing access to the development is provided;
- Development block standards are not applicable;
- Site Landscaping is provided by the Project and the plantings are arranged so as to not obscure the vision of exiting traffic.
- Parking must be located a minimum of 5 feet behind the front façade. The project meets this requirement. There are two handicap parking spaces located on the east side of the building. A street screen is required where parking is visible from a public street or sidewalk. A landscape screen is provided to screen parking from the street along New Driftway and marginally along Old Driftway.
- A driveway servicing the site is provided off New Driftway and is 24 feet wide. A second egress is provided to connect to Old Driftway and it is 12 feet wide.
- New public utilities will be provided as underground utilities.
- An outside trash storage area is provided with a dumpster inside a fenced enclosure.

- The loading area is not on the front façade. It is located to the rear and east side of the building. It will be screened from view by the parking screen.
 - Bicycle racks have been provided at a minimum required rate of 10% of the total automobile spaces. 4 bicycles rack spaces are required and 6 space are provided. The 6-space bicycle rack is provided at the front east corner of the building.
19. Sustainable Site Design is required in the VCN District per Section 751 of the Zoning Bylaw such that stormwater management shall conform to best management practices as described in the Commonwealth of Massachusetts Stormwater Management Handbook. For the Project, the predevelopment hydrology is maintained by infiltrating stormwater in underground chambers and having some pervious pavement for the patio and porous pavement for some of the front entry pavement. The Project's post construction stormwater peak rate and volume of runoff is not exceeded for the 1, 2, 10, 25 and 100-year 24-hour rain events. Stormwater Best Management Practices are required and meets those best practices through the use of deep sump hooded catch basins, a proprietary stormwater treatment unit and full subsurface infiltration. The project partially minimizes impervious surfaces through the provision of only the required parking is provided. The total impervious area on the site is 26,994 sq. ft. and the total disturbance is 34,000 sq. ft. out of the 34, 727 sq. ft. site. Greater than 80% TSS removal has been provided. Adequate recharge has been provided.
 20. A Landscape Plan is required for all submissions, except where waived by the Planning Board, which plan should, to the greatest extent possible, utilize native plants. No plants listed as Invasive or Prohibited by Massachusetts shall be used and existing invasive plants shall be removed. A Project Landscape Plan has been provided in which native plantings are reasonably proposed. Moreover, the lawn area in the front yard is minimized and fertilizer use will be discouraged and screening of the parking area from the front has been provided. This requirement has been met.
 21. Mixed-use developments are required to provide access from parking lots to a public sidewalk and to the primary building as indicated in Section 760.8. F. 2. – (public ways). The Project has provided a walkway connection from the main walk into the building to the existing sidewalk in the right of way of New Driftway and from the rear covered entry to Old Driftway.
 22. Section 760 Parking – Parking has been provided per the Zoning Bylaw. 40 spaces are required and 41 spaces are provided. The parking includes 2 spaces for (1) 3-bedroom unit at 2 spaces per unit; 12 spaces for (8) 2-bedroom units at 1.5 spaces per unit, 13 spaces for (13) one-bedroom units at 1 space per unit and 13 spaces for 6,450 sq. ft. of commercial area at 1 space per 500 sq. ft. Two (2) handicapped spaces are provided along with two (2) Electric Vehicle (EV) charging spaces. A third EV charging space is also one of the two handicap spaces so there is an accessible EV charging space. A backing up area for parking extends into the front setback; however, the Board agreed it was not technically parking and has minimal impact on the front setback.
 23. A Memorandum on Traffic Assessment for 61 New Driftway was prepared by Vanasse and Associates dated 7/22/22. Additional traffic information includes a Transportation Impact Assessment, Proposed Mixed Use Development, 61 New Driftway by Vanasse and Associates

dated November 2022, Vanasse Response to Planning Board Comments of Jan. 12, 2023 dated 2/10/2023 and Vanasse Response to Peer Review dated 2/10/23. Chappell Engineering Associates, LLC reviewed the traffic information for the Board and provided comments which the Applicant addressed through submission of additional material. Chappell has found their comments have been addressed with the additional submission and conditions provided.

24. Scituate Zoning Bylaw, Section 770.6 sets forth the standard of review for approval of proposed site plans which are required for proposed developments which are of a size that may have significant impacts on neighborhoods. Mixed-use buildings require a site plan reviewed by the Planning Board. In reviewing applications, the Planning Board is required to assure, to a degree consistent with the reasonable use of the site for the purposes permitted by the regulations of the district in which the land is located, all of the following:

Section 770.6.A Site Plan Approval Standard A: Protection of adjoining premises against detrimental and offensive methods of utilizing the site.

Finding: The site is currently used as a pet care business site. The proposed redevelopment will modify the site with allowed uses in accordance with the Zoning Bylaw. This standard is met.

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

Finding: The proposed Project is located at the corner of Old and New Driftway. The proposed Project will have its own separate off-street parking meeting the requirements of 750.8 and 760. Access to the site will be provided with a new curb cut in New Driftway. The Applicant has demonstrated that there is capacity on New Driftway and Old Driftway to handle the traffic from changing the site from a pet care facility to a mixed-use development. The Applicant has demonstrated there is adequate sight distance. Any queued traffic leaving the site will be contained on the site. The driveway along New Driftway is being relocated further east to provide for better traffic safety for both the Project and for the adjacent commercial site. This standard is met.

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

Finding: The proposed Project will have its own separate off-street parking meeting the requirements of Section 750.8 and 760. Access will be from a new curb cut onto New Driftway. The access off New Driftway is 24' wide. There will be a secondary one way exit from the site onto Old Driftway. There is a walkway to reach the sidewalk at Old and New Driftway. The Applicant has demonstrated the site will have sufficient access for service and emergency vehicles. Headlight glare should not be an issue as there are walls, fencing and

screening to the adjacent property. Cut off light fixtures will be used to minimize light glare. This standard is met.

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

Finding: The Project proposes to connect to the existing sewer service in Old Driftway and connect to the water main located in New Driftway. The Water and Sewer studies provided by Weston and Sampson indicate there is both sewer and water capacity in the public water and sewer systems and that the individual connections must meet DPW requirements. All units will be individually metered for water. The building will have fire sprinklers for fire protection. The existing hydrant by the New Driftway driveway will be moved and replaced with a new hydrant. There is a fenced-in dumpster area for trash which will be emptied on a weekly basis or more frequently as necessary. This standard is met.

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

Finding: The proposed stormwater management system for the Project consists of a subsurface recharge system for the proposed building and driveways. Minimal snow storage area is provided east of the building to the north edge of the parking lot. The Board engaged Chessia Consulting Services to evaluate the adequacy and accuracy of Morse Engineering Co., Inc.'s stormwater report and data as well as the efficacy of the design. Chessia Consulting Services submitted detailed written comments to the Planning Board. In response to these comments, the Applicant and Morse Engineering Co., Inc. provided responses, revised reports where requested and updated the site plans. After further review by Chessia Consulting Services, the Applicant was determined to have adequately addressed the comments and recommendations, assuming the stormwater management system is built as designed. The Applicant has submitted a stormwater management plan and Operation and Maintenance Plan that ensures that the project will be managed appropriately for the entire construction period and thereafter during on-going operations.

The Applicant has submitted an Erosion and Sediment Control Plan that has been reviewed by the Board's peer review consultant. The Board deemed it acceptable with the conditions provided.

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

This standard is met.

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

Finding: The site is not within the Water Resource Protection District. There are no toxic or hazardous materials proposed to be stored onsite or no oil storage or discharges are expected. This standard is met.

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

Finding: The proposed Project disturbs the entire site of 34,727 sq. ft. but relatively minor grade changes are proposed; therefore, there is minimal cut and fill. There will need to be topsoil stripping, and various structural fills will need to be brought in to accomplish the grading resulting in no significant grade change. No existing trees are proposed to remain on site. This standard is met.

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

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

32. Section 770.6.I Site Plan Approval Standard I: Parking areas shall be adequately buffered and shaded using native vegetation. Parking lots with ten or more spaces shall be planted with at least one shade tree per ten spaces, of a caliper of at least 2 ½ inches dbh, with each tree providing shade to the parking area. Parking areas and visually degrading elements such as dumpsters and loading docks shall be designed to minimize visual intrusion from public ways and residentially owned or zoned areas. In addition, suitable screening of such areas by wood fences and dense, native evergreen hedges of five feet or more at time of planting shall be utilized. The use of chain link fences shall be avoided except in industrial areas. Outdoor lighting, including lighting on the exterior of a building or lighting in parking areas, shall be arranged to minimize glare and light spillover to neighboring properties. No outdoor light shall be located more than twenty feet above the ground.

Finding: The project consists of two driveways – one on New Driftway and one on Old Driftway designed to service the mixed-use building. The Old Driftway driveway is a one way exit only. 41 parking spaces are provided. Shade trees meeting minimum size requirements are proposed adjacent to the parking area. Fencing provided is six feet to provide screening. Exterior lighting has been arranged to minimize glare and light spillover to adjacent properties thereby meeting the requirements of the Bylaw. This standard is met.

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

Finding: The surrounding area provides safe, functional and convenient pedestrian access. There is a sidewalk located on New Driftway and Old Driftway providing access to Greenbush and the train station. The sidewalk on New Driftway is proposed to be extended by the Project to the SkySail driveway. A 6-space bicycle rack is proposed. There is a walking connection in the site to the sidewalk. This standard is met.

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

Decision:

Based on the Findings of Fact and testimony provided at the public hearing, the Planning Board approves the Stormwater Permit, Site Plan Review and Special Permit in the Village Center and Neighborhood District for 61 New Driftway (“Site”) with the following conditions:

General Requirements

1. All construction work shall be done in accordance with i) the plans submitted by Morse Engineering Company, Inc. entitled “Site Plan Proposed Mixed-Use Development, 61 New Driftway (Assessor’s Parcels: 53-3-2A) Scituate, MA ”, consisting of 12 sheets dated July 13, 2022 with revisions through 6/28/2023; ii) Architectural Plans by Axiom Architects consisting of a colored rendering, Floor Plans for New Mixed Use Building A101 First Floor Plan, A102 2nd Floor Plan, A103 3rd Floor Plan, A104 4th Floor Plan; A105 Roof Top Amenity; A106 Building Elevations Front; A107 Building Elevations East and South; A108 Building Views; A109 Stepback Section Diagram; A110 Stepback Section 2 dated July 2022 with revisions through June 2023; iii) Stormwater Permit Application, Town of Scituate Stormwater Bylaw (Sec.32050) & Stormwater Regulations for Proposed Mixed-Use Development, 61 New Driftway, Scituate, MA dated July 14, 2022 with revisions through June 13, 2023; iv) Sewer System Review for 61 New Driftway Redevelopment, Scituate, MA by Weston & Sampson dated February 16, 2023; v) Water Service Evaluation for 61 New Driftway Redevelopment, Scituate, MA dated February 16, 2023; vi) Lighting Plan for 61 New Driftway by Visual dated 10/19/22 with revisions received by Planning Office through 7/5/23; vii) Landscape Plan by Sean Papich Landscape Architecture dated 7/13/2022 with revisions through 6/28/2023; viii) Estimate for sidewalk at 61 New Driftway from property line to SkySail driveway; ix) Memorandum on Traffic Assessment for 61 New Driftway by Vanasse and Associates dated 7/22/22; Transportation Impact Assessment, Proposed Mixed Use Development, 61 New Driftway by Vanasse and Associates dated November 2022, Vanasse Response to Planning Board Comments of Jan. 12, 2023 dated 2/10/2023 and

Vanasse Response to Peer Review dated 2/10/23. Final Building elevations must be approved by the Town Planner prior to issuance of a building permit for conformance to submitted material. A copy of the approved plan and conditions must be kept on-site at all times during construction.

2. Where this Site Plan Review and Special Permit requires approval, permitting or licensing from any local, state or federal agency, such required approval, permitting or licensing is deemed a condition of the Town of Scituate Planning Board's (the "Planning Board" or the "Board") approval of this Site Plan Review and VCN Special Permit, including, but not limited to approval of work by the Select Board and Department of Public Works ("DPW") in all public rights of way including New Driftway. Construction shall meet all applicable federal, state and local laws and regulations including, but not limited to, those of the Scituate DPW, Fire Dept., Building Dept., Board of Health, Planning Board as well as the Massachusetts DEP and State Building Code. All necessary permits and approvals must be received prior to construction.
3. Construction shall meet all requirements of the Scituate Zoning Bylaw.
4. The Applicant shall mean the current Applicant and all its successors in interest. This site plan review and special permit shall lapse within two years, which shall not include such time required to pursue or await the determination of an appeal under General Laws Chapter 40A, Section 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or, in the case of a special permit for construction, if construction has not begun by such date except for good cause. The Planning Board may extend said period, for good cause shown, upon receiving a written request from the Applicant prior to the expiration of said period, which request shall provide a detailed description of the good cause necessitating an extension. A public hearing may be required.
5. The total number of residential dwelling units on the Site shall not exceed twenty-two (22). There will be thirteen (13) one-bedroom units, eight (8) two-bedroom units and one (1) three-bedroom units. Five (5) of the 22 units will be Affordable Units. The total number of bedrooms on the Site shall not exceed thirty-two (32). A bedroom is defined in accordance with Title V of the State Sanitary Code. Massachusetts Architectural Access Board ("MAAB") requirements must be met. All units constructed at the Site shall be under rental conditions.
6. The Applicant shall obtain the plan endorsement from the Planning Board for the Site Plan Review and VCN Special Permit within 90 days of the expiration of the appeal period and this decision becoming final. All conditions shall be inscribed on the plans prior to endorsement.
7. Storage of fertilizers and pesticides is not allowed unless they are covered or contained.
8. No vehicle washing is to occur on the Site.
9. The units in the new building shall be numbered on the outside and on a map in the building lobby for identification, fire protection and emergency response purposes.

10. Gates are not allowed at the entrance or exit of the parking lot now or in the future.
11. The crosswalk across the new entrance shall be 10 feet wide and must comply with town Standards and the MUTDC. This must be on the plans prior to endorsement.

Waivers and Special Permits

12. A waiver is requested from 750.5 A. 3. b. Building Setback and Stepback Standards to allow a building height of 30.2' in the 12.5 foot to 37.5-foot zone along New Driftway where 30 feet is allowed resulting in a nonconformity of 0.4%. The Design Review Committee recommended to the Board that this difference was negligible. On the Old Driftway frontage, the average height is 33'-0" for 7.4% of the façade versus the required 30 feet. In the 12.5 foot to 37.5-foot zone. The DRC recommended to the Board that the design made sense in the context of the building as the main gable is extended forward for aesthetic reason and acts to shield some of the roof deck and utilities beyond. The Board grants this waiver.
13. A waiver is requested from Section 754.4 and 754.5 of the Zoning Bylaws to allow for the monitoring agent and other affordability requirements for the affordable units to be submitted after approval and prior to application for the first occupancy permit. The Board grants this waiver.
14. A special permit is needed under Section 750.5 B.2. d. to allow a building wider than 100 feet facing the street. The proposed building is 108 feet. The Board grants this special permit.

Utilities, Parking, Traffic and Street Improvements

15. Maintenance and repair of the driveway and parking areas, stormwater management system, site utilities, snow removal, lighting and landscaping shall be the responsibility of the Applicant.
16. All parking is limited to designated spaces as shown on the plan. Forty-one (41) surface parking spaces including two handicap accessible spaces are provided. Three (3) Electric Vehicle (EV) charging parking spaces are provided. Dead end parking by the building to be signed Residents Only except for handicap accessible and EV parking spaces. All parking is limited to spaces shown on the plan.
17. No underground irrigation systems are allowed to connect to the Town's water distribution system or in any manner use municipal water, in accordance with the policy made effective by the Board of Selectmen on October 8, 2014 and reaffirmed by the Scituate Water Commissioners on May 26, 2015. All irrigation systems installed in accordance with the policy must be supplied by on-site sources or private water suppliers at the expense of the property owner.
18. The Applicant shall allow members and town officials of the Planning Board and other persons acting under the authority of the Planning Board as its agents, to enter upon any lands and carry out such surveys and inspections as may be deemed necessary, and place and maintain monuments and marks. The Applicant shall cooperate with the Planning Board and Town officials and assist them in their efforts to verify that the layout, design and

construction work in the Special Permit Plan are satisfactory and conform to the Town specifications and the requirements of the Planning Board.

19. Independent inspector(s) contracted or employed through the Town shall perform the required construction inspections according to Section 9.0 of the Subdivision Regulations and as otherwise defined herein. All required inspections shall take place and be inspected by the inspector including water and sanitary sewage facilities. The inspector(s) shall be approved by the Town Planner and DPW and shall work under the direction of the Town Planner. The costs for these inspections shall be paid by the Applicant. Written reports will be submitted to the Applicant and the Planning Board in a timely manner stating results of any and all required inspections during construction unless more frequent reports are needed. 48 hours' minimum advance notice is required for all inspections. All stormwater recharge structures require inspection of the bottom of the excavation by the consulting engineer/independent inspector. Noise, dust and air quality control shall be in accordance with DEP regulations.
20. Construction of the proposed driveways, parking areas, proposed drainage system, proposed water system and proposed sewer system shall be supervised by a registered professional engineer. Said supervising engineer shall certify in writing to the Planning Board and DPW at completion that the proposed driveways, parking areas, drainage system, water system and sewer system were constructed in accordance with the approved plans and that said systems are functioning in full accordance with the approved design.

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

21. All materials for utility construction shall meet DPW construction standards.
22. A street opening permit shall be obtained for each individual utility connection.
23. A Curb Cut permit shall be obtained from DPW prior to the preconstruction conference.

24. ADA compliant ramps shall be constructed along New and Old Driftway at the proposed driveways, which ramps shall meet Town Standards and shall be in conformance with the Site Plans.
25. Signage and pavement arrows will be implemented to show circulation around the parking lot. One-way circulation cannot be changed without Planning Board approval.
26. The Applicant shall eliminate the existing driveway opening at the existing commercial property to New Driftway and add a sidewalk and a vertical granite curb to match and tie in seamlessly with the existing walk and curb, which work shall be in accordance with Town of Scituate DPW standards and Mass DOT Construction specifications. Saw cutting of the pavement and ADA accessible access is required. Cast iron tactile pads shall be used for the detectable warning strips in the Town right of way. This shall be completed prior to any occupancy permit for the site.
27. The Applicant shall conduct weekday AM and PM peak periods (7:00 to 9:00 AM and 4:00 to 6:00 PM counts of the site driveways for comparison with site trip generations submitted for this project within 6 months of achieving 90% occupancy for a week-long 5-day period. Should the counts be 10% or more higher, the Applicant shall conduct a capacity analysis at the Old Driftway/New Driftway intersection during AM and PM peak hours with comparison to the projected intersection operations used in the study. If signal improvements or timing changes are required, they shall be implemented within 6 months of submitting the traffic monitoring study.
28. The Applicant shall obtain all necessary approvals for the use of Town water prior to scheduling the pre-construction conference and any construction commencing. Any required upgrades, modifications or connections shall be at the Applicant's expense. Installation of all water mains and appurtenances shall be performed according to the specifications of the DPW Water Division. Copies of all necessary approvals shall be furnished to the Town Planner by the Applicant.
29. A determination of adequacy of the existing water service/fire flow for the proposed use shall be provided by the Applicant to the DPW and Town Planner for their approval prior to scheduling the pre-construction conference. Prior to endorsement the plans must be revised as noted below:
 - Separate connections for fire and domestic service to the existing 12" water main are required.
 - The water service(s) that serve the existing building shall be identified on the plans. Notes shall be added to abandon the existing water service (s) by excavating, closing, and capping the corporation stop. If existing tees are found, they shall be removed and replaced with 12" ductile iron water main and solid sleeve couplings.
 - The existing hydrant near the entrance on New Driftway shall be replaced. All new hydrants shall meet Town of Scituate standards.

- The size of the proposed domestic and fire water services shall be confirmed by the Applicant with the Town. Sizes for domestic and fire lines to be provided on a revised plan to Planning prior to application for a building permit.
- The Existing Conditions indicates there is one existing water service feeding the existing commercial structure at 61 New Driftway that is connected to the existing water main in New Driftway. The size and material of the existing water service shall be identified on the plan.
- The Applicant shall confirm the size of the existing water main in New Driftway as it passes in front of #61, as the records indicate that it is a 10" cast iron water main and transitions to 12" PVC water main at the intersection with Old Driftway.
- Fire flow conditions shall be calculated per the Weston & Sampson report. Flow tests and building type calculations shall be performed to ensure proper fire protection requirements.
- The Applicant shall provide a detail for the proposed 2-inch potable water service. All proposed 2" water services shall be either Type K copper or poly (CTS) tubing. All services 2" and smaller in diameter shall be installed with a curb stop. The Applicant shall include callouts to indicate the locations of the proposed curb stops and how the proposed potable water will be connected to the existing water mains (with corporation stop, saddle etc. The Applicant shall clarify on the plans how the remainder of the existing service not to be reused is abandoned or removed. Size and materials of existing water service shall be noted on plans. If the existing water service is less than 2 inches in diameter and/or made of a material other than copper or poly (CTS) tubing, the entire service shall be replaced.
- All units shall be individually metered. No master meters are allowed.
- The typical trench detail shall show the minimum required cover to be 5 feet for the proposed water main and services.
- The Applicant shall ensure that the proposed 4-inch PVC pipes connecting the gutter downspouts are installed at an elevation so as to not conflict with the proposed water service.
- The Applicant shall include callouts to indicate how the fire service will be connected to the existing main (with a tee or a tapping sleeve), and to identify the proposed gate valve.

30. The Applicant shall obtain all necessary approvals for the use of Town sewer prior to scheduling the pre-construction conference and any construction commencing. Any required upgrades, modifications or connections shall be at the Applicant's expense. Installation of all sewer mains and appurtenances shall be performed according to the specifications of the DPW Sewer Division. Copies of all necessary approvals shall be furnished to the Town Planner by the Applicant.

31. All replacement of, or connection to, Town sewer, drainage and the installation of water mains and appurtenances shall be performed according to the specifications of the Scituate DPW with an independent inspector contracted or employed by the Town to review the construction activity and assure compliance with the Town's rules and regulations. DPW

personnel must be in attendance for any sewer, drainage and water infrastructure and appurtenance work in the Town rights of ways and on the Project Site. In addition, the following must be addressed to the satisfaction of the Town Sewer Division prior to the commencement of construction with adequate notes added to the plans prior to endorsement:

- a. Confirmation that newly constructed manhole structures, if any, will be vacuum tested and such testing will be paid for by the Applicant. The test must also be witnessed by the Sewer Division and/or by the Town's approved independent inspector.
- b. Sewer permit costs are in addition to connection fees at a rate of \$50 per residential and \$125 per commercial.
- c. Expected Sewer connection fees have been revised to reflect existing betterment status. Any additional units connected to Town sewer shall incur privilege fees. The project is understood to be adding 21.5 sewer units consisting of 22 residential units (one 3 bed, eight 2 bed and 13 1 bed apartments) and seven retail spaces. The current sewer connection fees are \$16,000 per unit, with a 1 -bedroom apartment considered $\frac{1}{2}$ a unit. The project will be assessed at \$344,000 in sewer connection fees for the additional units.
- d. An External cleanout on the sewer service will be required within 10 feet of the building foundation. Cleanouts shall be provided on all bends.
- e. All external cleanouts shall be furnished with metal protective covers.
- f. Minimum slope of 2% is required for sewer services. Slopes shall be shown on the plan.
- g. PVC sewer pipe shall be SDR 35.
- h. The privately constructed sewer infrastructure will be owned and shall be maintained at all times by the Applicant. The sewer line from the property line in is owned by the Applicant.
- i. Based on the noted inflows of 110 gpm during wet-well draw down testing, and the existence of FOG at the Herring Brook Pump Station, the Applicant is required to perform light cleaning and closed-circuit television (CCTV) inspection of the existing sewer lines between SMH STA 2 + 91 (Record drawing C-7, File No 143-59) and SMH STA 0 + 05E New Driftway (Record Drawing C1, File No. 143-65) to better define current conditions of these pipes.
- j. Existing sewer lateral must be cut and capped.
- k. All joints in sewer mains, sewer services and sewer infrastructure shall be double-wrapped with a self-adhesive external PVC (10mil minimum) or EDPM rubber wrap (30 mil minimum) tape, with a minimum width of 6". This is required for all 6-inch pipe (existing or proposed) from the Town right of way (approximately at the existing clean out) to the proposed building.

1. Applicant shall provide as-built plan to the Sewer division once constructed.
- m. All sewer line work shall be done by a drainlayer licensed with the Town of Scituate.
32. The building, parking, walkways and required signage shall meet all applicable requirements of the ADA, MAAB and Scituate Commission on Disabilities if applicable.
33. The Applicant shall ensure that signs, landscaping and other features located within the sight triangle areas of the Project site driveways and the intersection of New Driftway and Driftway, are designed, installed and maintained so as not to impede lines of sight. (not to exceed 2.5 feet in height)
34. All signs and pavement markings to be installed shall conform to the applicable specifications of the Manual on Uniform Traffic Control Devices (MUTCD). All pavement markings in the public way shall be thermoplastic.
35. The Applicant shall ensure that snow windrows located within the sight triangle areas of the Project Site driveway intersections with New Driftway and Driftway that exceed 2.5 feet in height or that would otherwise inhibit sight lines are promptly removed.
36. Snow storage areas have been minimally designated on-site. The Applicant shall provide snow storage areas on the site plan **prior** to endorsement. The Applicant shall ensure all maintenance personnel are informed of snow storage locations. When on-site capacity is exceeded, an off-site location shall be used in compliance with all federal, state and local laws. Deicing and sanding agents can only be stored on site if they are covered or contained.
37. Trash management shall be internal to the building. A dumpster is proposed with a concrete dumpster pad. Trash removal shall occur as often as needed so debris is not placed outside the covered fenced dumpster, but at least on a weekly basis.
38. All electrical, telephone, cable and similar utilities shall be located underground.
39. Except for the Town-owned segments of the sewer and water line from the property line outward, all utilities including but not limited to the stormwater drainage shall be maintained by the Applicant according to the Post-Construction Phase Operation and Maintenance Plan Best Management Practices revised dated June 13, 2023 by Morse Engineering Co., Inc. and which are attached to this decision. The Post- Construction Phase Operation and Maintenance Plan Best Management Practices shall be provided to all property owners and property management people. The Post Construction Operation and Maintenance Plan shall be revised as a stand-alone document prior to endorsement and include snow removal conditions.
40. Porous Pavement areas must be vacuum swept and washed monthly. Infiltrative capacity must be checked after storms. Sand shall not be used on the porous pavement and salt use shall be minimized. An annual certification and report shall be provided to the Planning Office by a registered professional engineer that all components of the Post Construction Phase Operation & Maintenance Plan Best Management Practices are being practiced and adhered to. The surface is never to be resealed with impervious materials in perpetuity.

41. If the drainage system is not performing as designed and conditioned or stormwater is observed going to abutting properties or to the street, the Stormwater Authority can require all necessary mitigation to permanently remedy the situation. This condition applies to all construction activities and survives the issuance of a Certificate of Completion to apply during all on-going operations of the building and site.
42. No separate Stormwater Permit is required as long as the Site is built according to the approved plans and stormwater calculations. This approval and conditions constitute the Stormwater Permit.
43. Inspection of all infiltration systems must be performed by the Planning Board's consulting engineer and the design engineer prior to any backfill or system component installation to confirm suitability of the soils.
44. Electric vehicle charging stations shall be provided for three (3) vehicles for use by residents of the development.
45. No gated entry is allowed now or in the future.
46. Flowable fill will be required for any excavation in Driftway and New Driftway.
47. Soil conditions at the bottom of the proposed infiltration area shall be inspected by the Town's Consulting Engineer prior to infiltration devices being installed and backfilled.

Affordability

48. All Affordable Units shall meet the requirements for inclusion in the Subsidized Housing Inventory through the state's Local Initiative Program ("LIP") or other similar state-approved program in effect at the time of application.
49. According to Section 754 of the Zoning Bylaw, for projects receiving a density bonus, not less than twenty percent (20%) of housing units constructed shall be Affordable Housing. Five (5) Affordable Units are required for 22 units receiving a density bonus. The units are distributed throughout the proposed housing units. There are three one-bedroom units, one on each of the first, second and third floors. There are two 2-bedroom units, one on the third floor and one on the fourth floor. All of the affordable units are reserved for tenants with incomes at or below 80% of AMI.
50. The Affordable Units shall be constructed simultaneously with the market rate units. No Certificate of Occupancy will be issued for any residential dwelling building without the Affordable Units ready for occupancy.
51. The Applicant shall be responsible for preparation of a LIP Local Action Units application to be submitted to the Executive Office of Housing and Livable Communities (EOHLC) formerly DHCD by the municipality (chief elected official). Assistance will be available from the Planning Office.

Erosion Control and Phasing

52. An Erosion Control Plan with preliminary sequence of construction has been provided. The

plan shall be followed and if changes are necessary requested to the Planning Office. No major deviation shall occur.

53. Stockpiles shall be located as shown on the plans and must be protected with erosion controls including but not limited to silt socks and temporary seeding.
54. Phasing shall be per the phasing schedule indicated on the plans.
55. There shall be full unimpeded access for the fire truck and ambulance without backing out during construction.
56. The Board of Health (BOH) requires the property to be baited by a licensed exterminator two weeks prior to the demolition of the buildings and a report sent to the BOH.
57. The Construction Phase Operation & Maintenance Plan Best Management Practices shall be adhered to and added to the plans prior to endorsement.

Environmental Conditions: Noise and Dust

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

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

62. All changes to the proposed plans must be presented to the Town Planner for approval. The Town Planner or the Planning Board's inspector have the authority to approve minor changes or deviations from the approved plans and/or any details needed for lighting, signage, paving materials, fencing or landscaping. All other changes shall be approved by the Planning Board. Material selection shall be provided to the Town Planner for review for compliance with approved plans prior to installation.
63. A separate sign permit shall be required from the Building Department for any free-standing signs, unless otherwise exempted under the Zoning Bylaws. Signs shall be fully located on the Applicant's property and shall not block sight lines for traffic entry/egress from the Site. Any sign must be reviewed by the Design Review Committee prior to permitting.
64. The calculation for the by right density shall be added to the plan prior to endorsement along with the correct setback/stepback table from the zoning bylaw.

65. A density bonus of ten (10) units has been requested not including the affordable units for the project. The Planning Board can approve this additional density by special permit if the Applicant provides benefits to the residents of the project and VCN District and surrounding area. Finding #11 indicates the Applicant has agreed to provide a contribution of one hundred and thirty-three thousand dollars (\$133,000.00) to be used toward repair, maintenance, reconstruction and associated engineering of the pier in Driftway Conservation Park which needs repair and maintenance and is located in the area of the Project and included in the Town's 2018 Open Space and Recreation Plan. This contribution is made in lieu of meeting physical requirements for a density bonus under Section 580.4 C of the zoning bylaw. The Applicant has agreed to stipulate in express written terms or conditions that funds may be expended as part thereof by the Planning Board without further appropriation. Use of the funds for specific pier improvements/maintenance in the Driftway Conservation Park require approval by the Town Administrator, Town Planner and Planning Board. If all of the funds are not needed for the pier, the Planning Board shall be requested to identify and approve a new purpose or use of the remaining funds in accordance with Section 580.4 C.2. of the Scituate Zoning Bylaw. The Applicant shall provide such funds to the Town prior to commencement of construction. The Applicant is also providing sidewalk improvements to Town standards for approximately 141 linear feet in accordance with plan 4 of 12 revised dated 6/28/2023 with an approximate cost of \$44,500 to constitute the full density bonus for the project. The walkway must be completed prior to an occupancy permit for the project. These density bonus improvements are made under Section 580.4 C of the zoning bylaw.
66. The Applicant has agreed to contribute the sum of ten thousand dollars (\$10,000.00) to fund traffic and pedestrian improvements/studies in the Greenbush-Driftway area as approved by the Planning Board. The Applicant has agreed to stipulate in express written terms or conditions of the contribution that the funds may be expended as part thereof by the Planning Board without further appropriation. Use of the funds for specific improvements require the approval by the Town Planner, Planning Board and Town Administrator. The Applicant shall provide such funds to the Town prior to the commencement of construction.
67. All proposed lawns and swale areas shall have a minimum of 6" of clean screened loam. A bill of lading shall be provided to the Town Planner during construction to show that the loam is clean.
68. Outdoor amenity areas must be shown by type, size in square feet and percentage of lot area and labelled on plan prior to endorsement. Landscape plan shall not be used for this purpose.
69. There shall be no lighting spillover to any abutting properties. Lighting fixtures shall be cut off/down lighting style. All fixtures shall be LED and no higher than 15 feet. Lighting Fixture details and specifications shall be provided on the plans prior to endorsement.
70. Street trees shall be a minimum of 3" caliper and 10 feet high with branching height above 6 feet.
71. The existing loam stripped for the project shall not be spread back on the site if it contains invasive species i.e. knotweed.

Architecture/Design:

72. The building shall be constructed in accordance with the architectural elevations and plans submitted for the Project. The quality of materials, construction and colors shall not substantially deviate from those as shown on the elevations and discussed during the public hearing without the review and approval of the Planning Board.
73. The final building plans, stamped by a registered architect, shall be provided to the Planning Department prior to a building permit being issued for review for consistency with the elevations and renderings described in Condition 1. If the plans differ from the approved plans, approval of the changes by the Planning Board will be required.
74. Detailing of the exterior materials with emphasis on the exterior and trim details and review of the locations of the utilities and mechanical equipment must be reviewed by the Design Review Committee with concurrence by the Planning Board prior to issuance of a building permit. There shall be a concerted effort on the part of the Applicant to design and install the majority of the HVAC equipment on the roof of the building.
75. Low reflectivity glass is required.
76. Any fencing on site is required to be 6 feet tall.
77. There shall be a minimum of two (2) benches and two (2) picnic tables located throughout the site which are to be field located during construction with approval of these locations by the Town Planner
78. Calculations for gutter capacity, downspout sizing and pipe sizing shall be submitted and approved by the consulting engineer prior to issuance of a building permit.
79. A certification shall be provided to the Town Planner by the architect prior to a Certificate of Occupancy that the building as constructed is in substantial compliance with the approved plans.

Required Prior to Scheduling the Pre-Construction Conference

80. As the units are rental units, the Applicant shall provide draft leasing documents for review to include:
 - a. A statement that the driveway, parking areas, drainage system, sewer, landscaping, amenity spaces and other common areas shall be owned by the Applicant and shall be maintained by the Applicant shall not be the responsibility of the Town to maintain. The driveway, drainage system, landscaping, lighting, stormwater leaching system and other common areas shall be inspected, maintained and repaired by the Applicant. This shall also be stated in a note added to the plans prior to endorsement.
 - b. A requirement that: i) maintenance of the drainage system, parking, driveways, and landscaping shall be in accordance with the Post-Construction Phase Operation and Maintenance Plan Best Management Practices approved by the Planning Board's consulting engineer; ii) provisions for snow removal and maintenance of safe conditions through the winter of all vehicle and pedestrian ways has been provided; and iii) a description of the

required annual maintenance of the driveway, parking areas, landscaping, lighting and other common amenities.

- c. A table of the number and general location of parking spaces assigned to each unit.
 - d. The revised Post-Construction Phase Operation & Maintenance Plan Best Management Practices shall be provided to the Planning Board as a stand-alone document.
81. Prior to scheduling the pre-construction conference, the Applicant shall provide to the Planning Board:
- a. Copies of the recorded site plan review and special permit and plans;
 - b. A check to cover cost of inspections by the Town's consulting engineer. These shall include, at a minimum, inspections of Subdivision Rules and Regulations Section 9.0, for the driveway, parking areas, walks, and stormwater management systems, water system, municipal sewage connection and sanitary sewerage line, new curbing and erosion and dust control measures, as well as any specific requirements contained herein which may require review and/or inspections by the Town. The specific amount shall be provided by the Planning Dept. based on the consulting engineer's estimate, shall be subject to amendment from time to time and shall be supplemented by the Applicant as requested by the Planning Dept.;
 - c. A construction schedule including approximate dates for installation of erosion control and other site protection/stabilization, construction of the building, and all applicable items in Subdivision Rules and Regulations Section 9.0; and
 - d. A type and amount of security provided by the Applicant reasonably satisfactory to the Planning Board to cover the satisfactory completion of site and infrastructure features shown on the site plan including landscaping, parking, utilities, drainage, signs, lighting and related conditions imposed by the Board. The amount shall be based on the Applicant's contractor's estimate of costs of these items, reviewed by the Town's consulting engineer and shall be approved by the Planning Board prior to the preconstruction conference.
 - e. Provide contact data for the Site Contractor, General Contractor and 24-hour number for responsible party in the event of an emergency.

Required Prior to the Start of Construction

82. Within two calendar weeks prior to the Applicant's notification to the Town Planner that it intends to commence any work on the project site, a pre-construction conference shall be held with the Applicant, their representatives, their engineer, the site contractor(s), the Town Planner, the Town Engineer and other DPW representatives as necessary, the Police Department, the Planning Board's consulting engineer and other representatives of the Town as the Board feels are necessary. A list of all contractor contacts, including names and telephone numbers, shall be provided to the Planning Board, DPW and Police Department.

At least one telephone contact shall be available 24 hours per day in the event of an emergency.

83. The property lines of the subject Property shall be marked or flagged in the field under the direction of a surveyor and notification given to the Town Planner and Consulting Engineer a minimum of three business days prior to the start of construction. The property line shall be staked or pinned at all times during construction.
84. A stabilized construction entrance and silt fence/sock must be installed prior to any earth disturbing activities on site including but not limited to clearing and grubbing. Construction fencing shall be required as necessary to comply with federal, state and local laws.

Required During Construction

85. Construction work shall not begin prior to 7:00 AM weekdays and 8:00 AM on Saturday and shall cease no later than 7:00 PM or dusk whichever is earlier. No construction shall take place on Sundays or legal state or federal holidays.
86. The Board reserves the right to require the consulting engineer to visit the site weekly or as often as necessary during construction to observe and report on matters within the scope of the Planning Board's authority.
87. All earth moving/disturbance operations shall only occur while erosion and sedimentation control measures are in place and approved by the Town Planner or Town's Consulting Engineer. Such control measures shall remain in place until the Board's consulting engineer determines after consultation with the Town Planner, that the danger of erosion or sedimentation no longer exists. It is the Applicant's affirmative responsibility to ensure the maintenance and management of all stormwater control measures at all times during construction to ensure there are no increases in stormwater flow, velocity or volume to abutting properties at any time.
88. Construction activities on the site shall conform to the Town of Scituate General Bylaws.
89. No sediment (including silty water) shall be allowed to leave the site during construction.
90. No parking or unloading on Driftway, New Driftway or Old Driftway shall be permitted during construction unless approved in advance and controlled at the same time by the Police Department. Construction vehicles shall use the designated construction access on-site.
91. All construction parking shall be on site unless otherwise approved by the Planning Board.
92. The Applicant shall notify the Scituate Police Department 48 hours in advance of any significant equipment and construction material arrival to the site which may cause a safety hazard or material disruption of the public way such that a police detail is necessary to ensure safe passage. Any Police detail required is at the expense of the Applicant and is required when the Police Department determines it is necessary.
93. The Applicant shall not allow any large construction equipment or trucks to stage or idle on public roads and shall not allow such equipment or trucks to idle onsite prior to 7:00 AM. Police details may be required for construction access or work within the layout of New Driftway or Driftway (Old).

94. The Applicant shall provide the Town with the route(s) construction traffic will use so that if a safety hazard or material disruption of the public way impedes safe passage, a police detail would be obtained by the Applicant at its expense.
95. 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.
96. No use of hydrants on-site or on adjacent roads off-site is allowed for construction use. A hydrant may be available at the water treatment plant for construction use during non-water ban times.
97. 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.
98. Blasting, if necessary, shall be conducted according to all necessary permits and meet all of the requirements of the Scituate Fire Department.

Required Prior to Issuance of Occupancy Permits

99. No Certificate of Occupancy shall be issued until the Planning Board and Building Commissioner are satisfied that the building (s), driveway, parking areas, and installation of necessary utilities is in full compliance with the approved plans and the site plan review and special permit.
100. Prior to application for a Certificate of Occupancy, a copy of the contract for inspections and maintenance of the Stormwater System per the Operation and Maintenance Plan shall be provided to the Planning Office.
101. Prior to applying for an occupancy permit for the building on the site, the sidewalk in the right-of-way of Driftway must be constructed down to the SkySail driveway.
102. Prior to applying for an Occupancy Permit, the Applicant shall provide:
 - a. A copy of an executed regulatory agreement between the developer, municipality and EOHLC to insure long-term affordability.
 - b. The proposed rental price of the affordable units;
 - c. A draft deed restriction to restrict the subsequent price of the affordable rental units to the applicable rental amounts for units at or below 80% of the area mean income (AMI) according to the Executive Office of Housing and Livable Communities (EOHLC) in perpetuity. The draft deed restriction shall be approved by Town Counsel and proof of recording provided to the Planning Board prior to the issuance of the Occupancy Permit for an affordable unit;
 - d. A plan showing the location of the affordable units for the Building and Planning Departments;
 - e. The name and contact information for agencies, companies or individuals who will conduct marketing, hold the lottery and perform the monitoring;

- f. A draft affirmative marketing plan meeting the guidelines for approval of EOHLIC. The marketing Plan must affirmatively provide outreach to area minority communities to notify them of the availability of the units and must demonstrate the need for local preference as well as insure there will be no discriminatory impacts as a result of using local preference criteria. If the plan does not meet EOHLIC requirements for inclusion of the units on the Subsidized Housing Inventory, revisions will be required prior to an Occupancy permit.
- g. Any changes to the affordability documents must be approved by the Town Planner.

Administration

- 103. All time periods referenced in this document for completion of conditions shall be tolled in case any appeals are taken.
- 104. This Site Plan Review and Special Permit shall run with the land and shall be void if it is not recorded at the Registry of Deeds within 120 days of expiration of the appeal period or such extension of that time period granted by the Planning Board following approval of this Special Permit. The Applicant shall provide proof that the Special Permit was recorded to the Planning Board.
- 105. The Planning Board may at 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 or is otherwise warranted.
- 106. This Special Permit shall lapse within two years from the date of its issuance unless substantial use or construction has commenced prior to that time in accordance with M.G.L. Chapter 40A, Section 9.
- 107. All plan sheets of the Site Plan Review and VCN Special Permit shall be recorded at the Registry of Deeds.
- 108. All construction work shall be done in accordance with the plans. Failure to comply with any condition of this permit shall cause it to be deemed invalid.
- 109. Any condition contained herein that varies from the plan supersedes the plan where different.

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 unanimously to approve the Site Plan Administrative Review and Special Permit for a Mixed-Use Building in the Village Center and Neighborhood District-Greenbush Gateway District – New Driftway Transit Village Subdistrict (VCN-GDG-NDTV and Stormwater Permit for 61 New Driftway with the conditions noted above.

November 9, 2023

Date

SCITUATE PLANNING BOARD

Patrick Lambert
Steph Petronio
Anna Barone
[Signature]
Rebecca [Signature]

This decision was filed with the Town Clerk on November 15, 2023
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

